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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Summary or arbitrary executions

Report by the Special Rapporteur, Mr. S. Amos Wako, pursuant to Commission on Human Rights resolution 1991/71

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Introduction

1. The present report is submitted pursuant to Commission on Human Rights resolution 1991/71 of 6 March 1991 entitled "Summary or arbitrary executions". This is the ninth report of the Special Rapporteur to the Commission on Human Rights on the subject.

2. In his nine previous reports (E/CN.4/1983/16 and Add.1, E/CN.4/1984/29, E/CN.4/1985/17, E/CN.4/1986/21, E/CN.4/1987/20, E/CN.4/1988/22 and Add.1 and 2, E/CN.4/1989/25, E/CN.4/1990/22 and Add.1 and E/CN.4/1991/36), the Special Rapporteur examined the various aspects of the phenomenon of summary executions, including legal and other theoretical issues.

3. Chapter I of the present report is a summary of the activities undertaken by the Special Rapporteur over the past year. In chapter II, the Special Rapporteur sets forth the legal and analytical framework within which he carried out his mandate. In chapter III, country-specific situations in which the Special Rapporteur has pursued his mandate are addressed: in part B thereof, the Special Rapporteur describes urgent appeals and other communications transmitted to Governments, together with any replies or observations received from them. The Special Rapporteur hopes that he has presented a comprehensive picture of the situation in each country.

4. Finally, in chapter IV the Special Rapporteur sets forth his conclusions, highlighting four issues: (i) death threats, (ii) deaths in custody, (iii) executions following inadequate trial or judicial procedures, and (iv) extra-legal executions within the context of situations of internal conflict.

5. Based upon his analysis of the information received, the Special Rapporteur closes his report with a number of recommendations designed to ensure more effectively, in future, respect for the international instruments and standards to which his mandate refers.

I. ACTIVITIES OF THE SPECIAL RAPPORTEUR

A. Consultations

6. The Special Rapporteur visited the Centre for Human Rights, United Nations Office at Geneva, in July 1991 for consultations with the secretariat and again in January 1992 to finalize his report.

B. Communications

1. Information received

7. In carrying out his present mandate, the Special Rapporteur received communications concerning summary or arbitrary executions from Governments, non-governmental organizations and individuals. The number of communications again increased over the past year.

8. Information of a general nature and/or concerning specific allegations of summary or arbitrary executions were received from the following non-governmental organizations in consultative status with the Economic and Social Council: Amnesty International, Andean Commission of Jurists, Anti-Apartheid Movement, Arab Lawyers Union, Commission of the Churches on International Affairs of the World Council of Churches, International Association of Democratic Lawyers, International Commission of Health Professionals for Health annd Human Rights, International Commission of Jurists, International Committee of the Red Cross, International Confederation of Free Trade Unions, International Defence and Aid Fund for Southern Africa, International Federation of Human Rights, International Federation Terre des Hommes, International League for Human Rights, International Organization of Journalists, Pax Christi - International Catholic Peace Movement, Pax Romana - International Catholic Movement for Intellectual and Cultural Affairs and International Movement of Catholic Students, Regional Council on Human Rights in Asia, Union of Arab Jurists, Women's International Democratic Federation.

9. In addition, information concerning alleged cases of summary or arbitrary execution was received from a number of regional, national and local non-governmental organizations, groups and individuals in various parts of the world.

2. Allegations of summary or arbitrary executions

10. In pursuance of his mandate, the Special Rapporteur sent cables and letters to Governments concerning allegations of imminent or actual summary or arbitrary executions in their countries.

11. In reply to the Special Rapporteur's cables and letters, a number of Governments provided him with information and observations concerning the allegations. In order to issue the present report on time, the Special Rapporteur was obliged to leave government replies which reached him after 31 December 1991 for his next report.

(a) Urgent appeals

12. In response to information containing allegations of imminent or threatened summary or arbitrary executions which appeared prima facie relevant to his mandate, the Special Rapporteur addressed 125 urgent appeals by cable concerning 345 identified cases, as well as concerning large groups of persons who could not be identified by name, in which he appealed for the Government's protection of the right to life of the individuals concerned and requested information concerning those allegations to the Governments of the following 44 countries: Albania, Algeria, Argentina, Brazil, Burundi, China, Colombia, Cuba, Ecuador, El Salvador, Ethiopia, Grenada, Guatemala, Haiti, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kuwait, Madagascar, Malaysia, Mali, Myanmar, Nicaragua, Nigeria, Pakistan, Paraguay, Peru, Philippines, Rwanda, South Africa, Sri Lanka, Sudan, Thailand, Togo, Tunisia, Turkey, Uganda, Union of Soviet Socialist Republics, United States of America, Yemen, Yugoslavia and Zaire.

13. Replies were received from the Governments of the following 21 countries: Algeria, Argentina, Bhutan, Brazil, China, Colombia, El Salvaldor, Guatemala, Indonesia, Iran (Islamic Republic of), Iraq, Kuwait, Morocco, Nicaragua, Nigeria, Peru, Sudan, Tunisia, Turkey, Union of Soviet Socialist Republics and Yugoslavia.

14. In addition, replies were received from the Governments of the following eight countries concerning cables sent by the Special Rapporteur during 1990: Brazil, Colombia, Iran (Islamic Republic of), Mauritania, Mexico, Myanmar, Paraguay and the Philippines.

15. These messages and the replies received are summarized in Chapter III; the full texts are available for consultation in the secretariat files.

(b) Requests for information concerning other incidents or cases of alleged summary or arbitrary executions

16. The Special Rapporteur also sent letters to the Governments of the following 49 countries concerning alleged summary or arbitrary executions in their countries: Bangladesh, Bhutan, Bolivia, Burkina Faso, Chad, China, Colombia, Cuba, Dominican Republic, Egypt, El Salvador, Ethiopia, Greece, Guatemala, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kuwait, Lesotho, Mali, Mauritania, Mexico, Morocco, Myanmar, Nicaragua, Niger, Nigeria, Peru, Philippines, Rwanda, Senegal, South Africa, Sri Lanka, Sudan, Suriname, Tanzania, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Venezuela, Yugoslavia and Zaire.

17. Replies were received from the Governments of 17 countries: Bangladesh, Bhutan, Colombia, Greece, Guatemala, Haiti, India, Iraq, Jordan, Morocco, Nicaragua, Rwanda, Sri Lanka, Sudan, Tunisia, Turkey and Venezuela.

18. In addition, replies were received from the Governments of the following 10 countries concerning the allegations transmitted by the Special Rapporteur during 1990: Brazil, Colombia, Iran (Islamic Republic of), Mauritania, Myanmar, Nigeria, Paraguay, Philippines, Sudan, Tunisia and Yugoslavia.

II. LEGAL FRAMEWORK WITHIN WHICH THE MANDATE OF THE SPECIAL RAPPORTEUR IS IMPLEMENTED

A. The general framework

19. The mandate of the Special Rapporteur was established by the Economic and Social Council in its resolution 1982/35 of 7 May 1982. In the first two preambular paragraphs of that resolution reference is made to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which provide the normative framework for implementation of the mandate. Article 3 of the Universal Declaration recognizes the right to life in general terms. Article 6 of the International Covenant on Civil and Political Rights recognizes the inherent right of every person to life, adding that this right "shall be protected by law" and that "No one shall be arbitrarily deprived of life". Article 6 also contains several provisions restricting the application of the death penalty, in those States which have not yet abolished it. Other provisions of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights also have relevance to the mandate of the Special Rapporteur in certain circumstances, as indicated below.

20. In applying the relevant provisions of the International Covenant on Civil and Political Rights to situations arising within his mandate, the Special Rapporteur is guided by the views of the Human Rights Committee on their meaning and implications as stated in the General Comments adopted by that Committee and its jurisprudence under the Optional Protocol.

21. In determining whether allegations received come within his mandate, and if so how to respond effectively to them, the Special Rapporteur is also guided by other relevant treaties, declarations and instruments adopted by competent United Nations bodies. One of the most pertinent is the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council in its resolution 1989/65 of 24 May 1989. The Special Rapporteur had pointed out the need for standards on this topic in his fourth report (E/CN.2/1986/21, para. 209), and subsequently participated actively in their elaboration. These Principles are thus based in large part on the lessons distilled from the Special Rapporteur's experience of studying and dealing with the problem of summary and arbitrary executions for several years, and provide appropriate guidance for government action in many of the cases and situations reported.

22. In May 1991, the Crime Prevention and Criminal Justice Branch of the United Nations Centre for Social Development and Humanitarian Affairs published a document of major importance for guaranteeing the right to life. Entitled Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (ST/CSDHA/12), it lays down procedures for conducting investigations into extra-legal executions or killings. The Special Rapporteur urges all Governments to incorporate these procedures into national legislation and practice, as well as in training programmes for law enforcement officials.

23. Other instruments which the Special Rapporteur considers relevant to his mandate are mentioned below.

B. Instruments relevant to the imposition of the death penalty

24. Article 6 of the International Covenant on Civil and Political Rights sets forth several important restrictions on the imposition of the death penalty, as indicated above. Paragraph 2 provides, inter alia, that it may be imposed "only for the most serious crimes" and only "pursuant to a final judgement rendered by a competent court". Paragraph 4 recognizes the right of persons sentenced to death to seek pardon or commutation of the sentence, and paragraph 5 prohibits the imposition of the death sentence for crimes committed by persons below 18 years of age and the application of the sentence to pregnant women. Article 14, concerning the right to a fair trial, is also relevant, as is article 15, which prohibits, among other things, the retroactive application of more severe sentences.

25. Apart from the International Covenant on Civil and Political Rights, the instrument most relevant to cases concerning the death penalty is the Safeguards guaranteeing protection of the rights of those facing the death penalty, adopted by the Economic and Social Council in its resolution 1984/50 of 25 May 1984. This instrument provides expressly that the death penalty may only be carried out after a trial "which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights", reaffirms the standards contained in the International Covenant on Civil and Political Rights concerning persons under the age of 18 and pregnant women, and adds certain other restrictions.

26. The imposition of the death penalty for crimes committed by persons under the age of 18 is also prohibited by article 37 (a) of the Convention on the Rights of the Child.

27. The views of the Human Rights Committee in the case of Carlton Reid v. Jamaica, contained in its communication No. 250/1987, adopted on 20 July 1990 (A/45/40, chap. IV J), concerning the right of persons accused of a capital offence to legal assistance and the right to appeal, have also been cited by the Special Rapporteur.

C. Violations of the right to life during armed conflicts

28. The Special Rapporteur receives many allegations concerning summary and arbitrary executions during armed conflicts. In considering and acting on such cases the Special Rapporteur takes into account, in addition to the instruments mentioned above, the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 1977. Of particular relevance are common article 3 of the 1949 Conventions, which protects the right to life of members of the civilian population as well as combatants who are injured or have laid down arms, and articles 51 of Additional Protocol I and 13 of Additional Protocol II concerning the right of the civilian population to protection against the dangers arising from military operations.

D. Deaths due to the use of force by law enforcement officers

29. Deaths caused by the use of force by law enforcement officers, in response to public demonstrations or communal violence, for example, constitute an important category of cases brought before the Special Rapporteur. The main instrument taken into consideration in such cases, in addition to those indicated above, is the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Havana in 1990: of particular relevance are principles 4, 5, 9 and 11, as well as principles 13 and 14, which provide specific guidelines on "policing unlawful assemblies". Also relevant is article 3 of the Code of Conduct for Law Enforcement Officials, adopted by the General Assembly in its resolution 34/169 of 17 December 1979, which provides that "Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty".

E. Deaths in custody

30. The Special Rapporteur receives many allegations concerning deaths in custody under various circumstances. When the death results from torture or other deliberate mistreatment, article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights are relevant, in addition to the articles mentioned above. In addition, the Special Rapporteur takes into consideration the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in its resolution 3452 (XXX) of 9 December 1975, and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in its resolution 39/46 of 10 December 1984.

31. If the death appears due to the use of force, for example to prevent escape or control a disturbance, principles 15 and 16 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials are relevant.

32. If the death results from other causes, such as starvation or lack of medical care, the Special Rapporteur takes into account the Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders and approved by the Economic and Social Council in its resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977, and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by the General Assembly by its resolution 43/173 of 9 December 1988.

F. Executions committed by death squads or unidentified persons

33. When allegations are received concerning executions attributed to death squads, or executions which do not appear to be common crimes but where the responsible party is unknown, the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions provide

comprehensive guidelines as to how Governments should fulfil their obligation to investigate the executions and prosecute those responsible, once they are identified.

G. Expulsion of persons to a country where their life is in danger

34. The Special Rapporteur has received some allegations concerning the imminent expulsion of refugees or asylum seekers to their country of origin, in circumstances where there would be a serious danger of execution upon their return. In responding to such allegations, the Special Rapporteur takes into account, in addition to the standards concerning the right to life mentioned above, article 14 of the Universal Declaration of Human Rights, which recognizes the right to seek asylum. If the persons concerned are refugees, the 1951 Convention relating to the Status of Refugees may also be pertinent. Article 33 of that Convention prohibits the "refoulement" (or forcible return) of a refugee to a territory "where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion". The United Nations High Commissioner for Refugees considers that the principle of "non-refoulement" forms part of customary international law.

35. In this regard, principle 5 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions provides that "No one shall be involuntarily returned or extradited to a country where there are substantial grounds for believing that he or she may become a victim of extra-legal, arbitrary or summary execution in that country".

H. The rights of victims

36. The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, recommended for adoption by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and adopted by the General Assembly in its resolution 40/34 of 29 November 1985, is also relevant to the mandate of the Special Rapporteur. Of particular relevance is principle 11, which provides that "where public officials or other agents acting in an official or quasi-official capacity have violated national criminal laws, the victims should receive restitution from the State whose officials or agents were responsible for the harm inflicted". It should be noted that the term "victim" includes "the immediate family or dependants of the direct victim" (principle 2). Also relevant are principles 18 and 19, concerning abuse of power, and principle 6, concerning the participation of victims in legal proceedings relating to redress of the injury suffered. Thus far, the number of cases in which the Special Rapporteur has received information concerning compensation of the families of persons executed summarily or arbitrarily is very small.

III. SITUATIONS

A. General

37. The information received by the Special Rapporteur in the course of his present mandate includes allegations of executions or deaths which may have taken place in the absence of the safeguards designed to protect the right to life embodied in various international instruments. These include the International Covenant on Civil and Political Rights (arts. 4, 6, 7, 9, 14 and 15), the Standard Minimum Rules for the Treatmemt of Prisoners, the Code of Conduct for Law Enforcement Officials, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Safeguards guaranteeing protection of the rights of those facing the death penalty, approved by the Economic and Social Council in resolution 1984/50 of 25 May 1984, the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, approved by the Economic and Social Council in resolution 1989/65 of 24 May 1989. The Special Rapporteur also took into consideration Commission on Human Rights resolution 1991/70 of 6 March 1991, in which the Commission expressed its continued concern at reports of indimidation and reprisal against individuals and groups who seek to cooperate with the United Nations and representatives of its human rights bodies.

B. Country situations

Albania

Appeals for urgent action

38. On 15 March 1991, the Special Rapporteur sent a cable to the Government of Albania transmitting allegations regarding the possible extrajudicial execution of three persons and the wounding of at least 15 others during or shortly after a shooting incident outside the Military Academy in Tirana on 22 February 1991: during the course of a demonstration, at least three persons were killed, one of whom was a policeman; among those wounded were persons who apparently were not on the streets at the time of this incident, but who were subsequently assaulted by members of the security forces. Among those reported injured were several children, one of whom was dangerously ill.

39. The Special Rapporteur referred to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials as well as to the fundamental principles set forth in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which, at articles 3 and 6, respectively, provide that every individual has the right to life and security of the person and that this right shall be protected by law; he appealed to the Government for any information in connection with measures taken to ensure that the right to life is safeguarded and also on the relevant investigations carried out by the authorities on the above-mentioned incident.

40. On 5 April 1991, another cable was sent to the Government of Albania concerning allegations received regarding an incident during which three persons were said to have been killed, one of whom was Arben Broci, a leader

of the Democratic Party, and at least 50 others wounded when security forces fired at demonstrators outside the Workers' Party headquarters in Shkoder on 2 April 1991. In this connection, the Special Rapporteur once more referred to the relevant articles of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and reiterated an appeal for an investigation and information in connection with this incident.

41. At the time of preparation of the present report, no reply had been received from the Government of Albania.

Algeria

Appeal for urgent action

42. On 12 April 1991, the Special Rapporteur sent a cable to the Government of Algeria drawing its attention to information to the effect that, on 19 March 1991, Rashid Bouhouche, Abdennour Laras, Tahar Lyazed and Moussa Djebbare had reportedly been sentenced to death after being found guilty by the Criminal Court of the Court of Algiers of embezzling several million dollars from the public funds of the Banque Extérieur d'Algérie, as well as of corruption and mismanagement. Two of the accused, Mr. Lyazed and Mr. Djebbare, were apparently sentenced in absentia. Mr. Bouhouche and Mr. Laras, both imprisoned in Algiers, were allegedly chained hand and foot.

43. The Special Rapporteur referred to the basic principles set out in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, particularly those concerning the right to life and security of person to which every individual has a right which must be protected by law. He also reminded the Government of article 6, paragraph 2 of the Covenant which states that "In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant."

44. The Special Rapporteur requested the Government to take into consideration the provisions of the above-mentioned instruments in the general context of its concerns relating to the right to life of all individuals, and to furnish him with comments or information on the aforementioned cases.

Government reply

45. On 20 May 1991 the Government of Algeria, replying to the Special Rapporteur's communication of 12 April 1991, drew the Special Rapporteur's attention to the fact that the cases referred to could not be compared to situations of summary or arbitrary executions and that the reply it was transmitting in a spirit of cooperation could not therefore be interpreted as empowering the Special Rapporteur to refer to these cases in his report to the Commission on Human Rights.

46. The four persons mentioned above had been prosecuted for crimes under the ordinary law in force and subject to the death penalty. They had had the

right to a fair trial with all the appropriate guarantees. Their guilt had been established by the Criminal Court of the Court of Algiers which had the jurisdiction to try, as in the case in question, individuals referred to it by order of the Indictment Division. Mr. Tahar Lyazed and Mr. Moussa Djebbare, who had not complied with the order to appear before the court, had been tried in absentia.

47. With regard to the issue of the abolition of the death penalty, Algeria, which had chosen to abstain when the Second Additional Optional Protocol to the International Covenant on Civil and Political Rights was adopted, intended to reach a decision in a completely dispassionate manner, in the light of its wholehearted commitment to humanitarian principles and respect for the basic tenets of its legal system. Furthermore, the possibility of reducing the number of offences subject to the death penalty had not been excluded and the matter was being considered by the Ministry of Justice.

Argentina

Appeals for urgent action

48. On 28 June 1991, the Special Rapporteur sent a cable to the Government of Argentina concerning information that Hebe de Bonafini, President of the Madres de la Plaza de Mayo and other members of this organization, as well as Fernando "Pino" Solanas, a film director, had allegedly received death threats. The complaints concerning the circumstances of these cases were as follows:

(a) Mrs. de Bonafina and other members of the Madres de la Plaza de Mayo had received death threats on numerous occasions since February 1991. Moreover, their headquarters in the centre of Buenos Aires had been raided four times between 2 March and 4 June 1991, and money, recording equipment, prizes, a computer and computer files had been stolen. The complainants had assumed that these threats had been made by forces connected with the Government;

(b) According to reports, Mr. Solanas was shot several times by an unidentified gunman in circumstances which might suggest that he had been the victim of an attempted extra-legal execution. On 22 May 1991, Mr. Solanas was walking through the parking lot of the Olivos cinema studios with a colleague when he was shot at several times by a gunman in disguise. It seems that the gunman warned Mr. Solanas's companion to stand aside and told Mr. Solanas not to talk about the incident. Mr. Solanas was allegedly wounded in both legs and taken to an emergency clinic in the area. Subsequently he was transferred to a Buenos Aires hospital for treatment. The probable attempted extra-legal execution of Mr. Solanas took place three days after an interview with him was published in the newspaper Página 12, in which he publicly criticized the President of the Republic. As a result the President initiated proceedings against him for intentional defamation. Although, according to the information received, it is not certain that the security forces were involved, the complainants stressed that the victims were selected because of their criticism of the Government and that nobody had been tried in connection with those incidents, which suggests that the attacks were to some extent tolerated by the authorities.

49. In this connection, the Special Rapporteur referred to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council in its resolution 1989/65 of 24 May 1989, to the principles contained in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. In view of the fact that the persons referred to in paragraph 48 (a) collaborated regularly in the procedures laid down by the United Nations for the protection of human rights, the Special Rapporteur also referred to resolution 1991/70, adopted by the Commission on Human Rights on 6 March 1991, urging Governments to refrain from all acts of intimidation or reprisal against private individuals and groups who seek to cooperate with the United Nations and representatives of its human rights bodies. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the lives and physical integrity of the persons referred to above. He also requested information on those measures as well as on investigations carried out by the authorities in those cases.

50. On 12 September 1991, the Special Rapporteur sent a cable to the Government of Argentina concerning various magistrates and legal officials who had allegedly been the target of attacks and threats with a view to intimidating them in the performance of their lawful duties in connection with proceedings in which members of the police or military forces were involved.

51. According to the information received, mention was made of the following facts:

(a) On 19 May 1990, shots were fired at the car of the Federal Capital's criminal judge, Luis Jorge Cevasco, who is presiding over proceedings in which a number of policemen have been charged;

(b) On 9 and 17 October 1990 Raul Borrino, the criminal judge of San Isidro, Province of Buenos Aires, who was presiding at a trial in which a policeman was charged with torture, allegedly received death threats;

(c) On 10 October 1990, a so-called "inter-force police commando" threatened to kill Juan Makintach, the criminal judge of San Isidro, the prosecutor of the Court of Appeals of Lomas de Zamora and the Alberto Durán, the criminal judge of La Plata. All these persons were connected with legal proceedings against police officers for various offences such as threats and homicide;

(d) On 5 May 1991 Orfeo Maggio, the criminal judge of Quilmes, who was investigating the desecration of tombs in the Jewish cemetry of Berazategui, allegedly received a death threat;

(e) On 20 May 1991 Ariel Villar, clerk of the court in which threats against Mr. Maggio were being investigated, was allegedly threatened;

(f) From 26 May to 4 June 1991 Raul Casal, the criminal judge of San Isidro, who was investigating threats against his colleague Makintach, allegedly received a number of death threats directed against himself and his family;

(g) Between 13 and 20 July 1991: Maria Servini de Cubria and Ricardo Weschler, federal judges investigating cases involving trafficking in money from the drug trade complained that they had received death threats;

(h) Between May and June 1991: a number of members of the judiciary and legal officials connected with the trial against the "carapintadas" military group (on the grounds of their attempted military coup) allegedly received death threats, particularly judge Jorge Casanovas, who also appears to have been shot by unknown persons using rifles with telescopic sights. Death threats also seem to have been made against the relatives of members of the judiciary.

52. In this connection, the Special Rapporteur referred to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, to the principles contained in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. The Special Rapporteur requested the Government to take all measures at its disposal to protect the lives and physical integrity of the persons mentioned above. He also requested information on those measures as well as on the investigations carried out by the authorities in those cases.

Government reply

53. On 26 August 1991, a reply was received to the Special Rapporteur's cable of 28 June 1991, transmitting a communication from the National Directorate for Human Rights of the Ministry of the Interior concerning the cases of Hebe de Bonafini and the Madres de la Plaza de Mayo, Fernando Solanas and the investigations being carried out. In its communication the Government stated its conviction that what was involved was an extreme right-wing political attack, which was being investigated by the police of the Province of Buenos Aires. This action, it stressed, in addition to the continuing legal investigation, clearly revealed what was being done by the Ministry of the Interior to follow up and solve the case.

Bangladesh

1. Appeals for urgent action

54. During 1991, no appeals for urgent action were sent by the Special Rapporteur.

2. Other cases transmitted by the Special Rapporteur

55. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Bangladesh transmitting information he had received concerning several incidents of alleged summary or arbitrary executions perpetrated in Dhaka Central Jail. In late December 1990, approximately 10 prisoners were allegedly killed by members of the security forces during uprisings in the prison. On 8 and 9 April 1991, another 69 inmates of the same prison were reportedly executed when members of the paramilitary group "Bangladesh Rifles" and the army entered the prison after five prisoners had attempted to escape.

The Special Rapporteur was informed that the Government had announced the establishment of a commission to carry out investigations into the incidents at Dhaka Central Jail.

56. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Bangladesh to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Bhutan

1. Appeals for urgent action

57. During 1991, no appeals for urgent action were sent by the Special Rapporteur.

2. Other cases transmitted by the Special Rapporteur

58. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Bhutan transmitting cases of alleged summary or arbitrary executions. According to information received, 185 people were allegedly killed by the Royal Bhutan Army in a peaceful demonstration organized by the Student Union of Bhutan jointly with the Bhutan People's Party between 19 September and 5 October 1990. Reportedly, the Royal Bhutan Army fired upon peaceful unarmed civilian demonstrators in the towns of Chengmari on 20 September 1991, Sibsoo on 21 September 1991 and Pugli on 22 September 1991 and allegedly killed hundreds of people.

59. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Bhutan to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Government reply

60. On 17 December 1991, a reply was received from the Government of Bhutan to the Special Rapporteur's letter of 8 November 1991 stating that it categorically rejected as false the allegations that 185 persons were killed by the Royal Bhutan Army which was alleged to have fired upon peaceful unarmed civilian demonstrators at Chengmari, Sibsoo and Pugli areas of Samchi district, Bhutan, between 20 and 22 September 1990. The Government had certain knowledge of only one accidental death during the demonstrations in question. It was affirmed that such fabricated and malicious claims had been made by persons who had publicly declared their animosity towards both the existing civil authorities and the lawful domestic policies of Bhutan.

Bolivia

1. Appeals for urgent action

61. During 1991, no appeals for urgent action were sent by the Special Rapporteur.

2. Other cases transmitted by the Special Rapporteur

62. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Bolivia transmitting the case of a university student reportedly killed in July 1990 by members of the Grupo Especializado Antiterrorista, the Anti-Terrorist Special Force, for his alleged membership in the armed group Zarate Willka Armed Liberation Forces (Fuerzas Armadas de Liberación Zarate Willka, FAL-ZW). The Special Rapporteur was informed that no warrant for his arrest had been issued and that there was no indication that the victim had been sought by the authorities. According to the information received, no official inquiry had been conducted into the case.

63. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Bolivia to provide him with information on the above-mentioned case and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Brazil

1. Appeals for urgent action

64. On 5 February 1991, the Special Rapporteur sent a cable to the Government of Brazil concerning four persons who had allegedly been threatened with death. These were said to be: Joao Lucas da Silva, Cícero da Silva and José Cícero da Silva, leaders of the Rural Workers Union of Palmares, Pernambuco, and Maria Aparecida Pedrosa Bezerra da Silva, legal adviser to the same union. According to the information, on 13 December 1990, at the time the trial of the killers of the rubbertapper leader, Chico Mendes, was taking place, another rural workers union leader was killed. He was José Helio da Silva, legal counsel to the Rural Workers Union of Palmares. It was alleged that since the killing of José Helio da Silva, the four persons mentioned and other union leaders in Palmares have reported receiving threats and being harassed and that 45 unionists have been murdered in the State of Pernambuco in the last seven years.

65. On 8 March 1991, another cable was sent to the Government of Brazil concerning death threats allegedly made against seven persons. They were said to be: Father Ricardo Rezende, former coordinator of the Pastoral Land Commission of Conseiçao do Araguia, Carlos Cabral Pereira, Roberto Neto da Silva, Valderio Pereira dos Santos and Orlando Canuto, leaders of the Rural Workers Union of Rio María, Pará, who had allegedly, received death threats for more than a year; Manoel Pereira da Silva, a member of the Rubbertappers, Smallholders and Rural Workers Union (SINPASA) of Rio Branco, Acre, who had allegedly received death threats for six months, and Tania María Salles Moreira, the Public Prosecutor of Duque de Caxias, Rio de Janeiro State, who had reportedly received death threats by telephone at work and at home for some time. It was reported that Ms. Salles Moreira had been offered protection on her way to and from work by the State Secretary of Public Security and that Mr. Pereira da Silva had requested police protection, but that State authorities had not responded to this request. The other persons named were also without protection.

66. On 11 April 1991, another cable was sent to the Government of Brazil concerning three persons who had been threatened with death. These were said to be: José Alves de Souza, Antonio Fernandes Pereira and Isaias Mendoça Araujo. According to the information, on 7 March 1991, José Alves de Souza was shot in the back garden of his house in the Sao Jorge-Sucavo settlement in the township of Sitio Novo in the region known as Bico do Papagaio; Mr. Alves de Souza was reportedly wounded in his hands, legs and back; this was the second attempt on his life. When the President of the Rural Workers Union of Sitio Novo reported the assassination attempt, the local police delegate allegedly told him that, in addition to Mr. Alves de Souza, two other rural trade unionists and settlers from the same settlement, Antonio Fernandes Pereira and Isaias Mendoça Araujo, were also on the death list. Reportedly, neither of them had received police protection and no one had been detained in connection with the attempt against the life of Mr. Alves de Souza.

67. On 5 August 1991, a cable was sent to the Government of Brazil concerning allegations of threats against and attempts upon the life of Antonio Rodrigues de Amorim, former parliamentary candidate of the Partido dos Trabalhadores and President of the Rural Workers Union of Taua, Ceara. According to the information, on 2 July 1991, Mr. Rodrigues de Amorim was threatened by a person whose family had been involved in a land dispute with the family of Mr. Rodrigues de Amorim and other peasant families. The threats initially were made verbally and, subsequently, with a knife. Allegedly, the attacker had made several previous death threats against Mr. Rodrigues de Amorim. According to information the Special Rapporteur had received, the attacker was briefly detained by police and later was released without charge.

68. By the same order, the Special Rapporteur also transmitted to the Government information he had received according to which, in 1977, peasants from the Fazenda Abobora, including the family of Mr. Rodrigues de Amorim, took court action against their landowners with the aim of having their rent payments reduced according to law. Since then, the landowners allegedly had been trying to evict the peasants from the land. In 1987, a court decision protected the remaining families from eviction and reduced their rent payment. Mr. Rodrigues de Amorim reportedly began to receive death threats since that judicial decision.

69. On 4 October 1991, a cable was sent to the Government of Brazil concerning allegations of repeated threats against the life and physical integrity of six persons. These cases had reportedly occurred in two States of the country where it was alleged that the State authorities had failed to take effective action or to bring those responsible to justice. The names and activities of the persons threatened were as follows: Gumercindo Rodrigues, a trade unionist and adviser to the National Rubbertappers Council and the Xapuri Rural Workers Union in Rio Branco, Acre; Carlos Cabral Pereira, Roberto Neto da Silva, Valdério Pereira dos Santos and Orlando Canuto all rural union leaders in Rio Maria, Pará; and Father Ricardo Rezende.

70. On 5 November 1991, a cable was sent to the Government of Brazil concerning alleged death threats and other forms of intimidation against the life and physical integrity of Father Ladislau Da Silva, parish priest of

Esperantina, Piaui, north east Brazil and against Father Manoel Aparecido Monteiro, parish priest of Monte Santo, Bahia, and Maria da Conceiçao Neves Barbosa, lawyer of the Comissão Pastoral da Terra (CPT) in nearby Bonfim, Bahia. According to the information, death threats against Father Ladislau da Silva reportedly started after he publicly denounced what he regarded as the corruption of local authorities and their high salaries compared to the low wages of local urban and rural workers; Father Ladislau had reportedly been outspoken in the defence of peasants' rights; on 27 September 1991, while Father Ladislau was away, his parish house was broken into by unidentified gunmen. Death threats against Father Manoel and Ms. Neves Barbosa allegedly started after their intervention, in August 1991, on behalf of 170 peasant families who were involved in a land conflict with two neighbouring landowners. The conflict had involved violence from both sides. On 20 August, in an armed confrontation, two landowners' employees were killed; two peasants had been detained and were awaiting trial accused of the killings. According to the report received, there was no indication that Father Manoel or Ms. Neves Barbosa had instigated or supported violence. An anonymous letter, stained with blood, was reportedly left under Father Manoel's doorstep threatening not only him, but also Ms. Neves Barbosa and five other lay parish workers.

71. On 13 November 1991, a cable was sent to the Government of Brazil concerning the life and physical integrity of Mauro Carneiro dos Santos and Francisco Nunes de Sousa whose lives were thought to be in danger. According to the information, Mauro Carneiro dos Santos, the leader of the Sindicato dos Trabalhadores Rurais de Paragominas and President of the Brazilian Socialist Party and Francisco Nunes were reportedly killed while working on the construction of a rural road between the towns of Paragominas and Tome-Acu, Pará: Mr. Carneiro dos Santos had reportedly been a key figure in obtaining authorization from the prefeitura to build this road which would benefit several peasant communities; a local landowner, angered by the construction of the road which cut across his property, was said to have gone to the site of the construction together with some ten pistoleiros (gunmen). In the incident that followed, Mr. Carneiro dos Santos and Mr. Nunes de Souza, who tried to prevent the death of Mr. Carneiro dos Santos, were killed, allegedly by the local landowner, in unclear circumstances. An inquiry into the killings was being carried out by the local police. The source of the information expressed concern for the life and safety of members and leaders of rural trade unions representing families in Pará, who had reportedly been the targets of death threats, assaults, abductions and killings.

72. On 29 November 1991, a cable was sent to the Government of Brazil concerning the lives and physical integrity of Carlos Cabral Pereira and Roberto Neto da Silva, rural union leaders of Rio Maria, Pará, whose lives were thought to be in danger. According to the information, Mr. Cabral Pereira and Mr. Neto da Silva had allegedly enjoyed protection by the Federal Police following death threats and assaults against members and leaders of rural trade unions representing peasants and their families in southern Pará. Four leaders of the Rio Maria Union have reportedly been murdered since 1985. These intimidations and killings were said to have been carried out by gunmen who allegedly acted on behalf of landowners and who reportedly enjoyed a high degree of impunity. It was further alleged that the Brazilian authorities had consistently failed to take effective action to

prevent or investigate the killings or to bring those responsible to justice. It was reported that Federal Police protection had recently been withdrawn from Mr. Cabral Pereira and Mr. Neto da Silva. Fears were expressed that this may have put in danger their lives and physical integrity as police protection is still believed to be essential for the personal safety of the rural union leaders.

73. On 11 December 1991, a cable was sent to the Government of Brazil concerning Flávio Cláudio Luis dos Santos (9 years of age), Erivaldo Passos (16 years of age), Edson Cunha da Silva (17 years of age), Cristiano Batalha Neves (15 years of age), Márcio (16 years of age) and Rose dos Santos (14 years of age) who were thought to have been extrajudicially executed. According to the same information, the life and physical integrity of Andréia da Silva Lourenço (16 years of age) might be in danger. According to the information, the six above-mentioned children and adolescents were reportedly killed on 14 November 1991 in the shanty town of Nova Jerusalem, Duque de Cazias, a particularly deprived suburb of Rio de Janeiro. The circumstances suggested that the killings had been carried out by death squads: the children and adolescents were said to have been taken from the hut where they gathered to nearby barren land on the margins of the river Sapuf, there, they were reportedly made to lie face downwards and shot in the head at point blank range. Six of the victims died immediately; the seventh, Andréia da Silva Lourenço, although wounded in the head, reportedly remained alive and conscious. Fears were expressed to the Special Rapporteur that, being the only witness to the incident, her life and physical integrity might be in danger. Reportedly, one person had given himself up to the police and had assumed sole responsibility for the killings. It is alleged, however, that other people had also taken part in the killings and that the confessed murderer might be covering up for them.

74. According to official figures, from January to June 1991 there were 139 recorded unlawful killings of children in the State of Rio de Janeiro. Unofficial sources reported to the Special Rapporteur that there were at least 15 known death squads acting in different areas of Rio de Janeiro. Allegedly, the authorities were involved, in several cases, in death squad operations. In particular, the Special Rapporteur was informed of cases where members of death squads were issued with identification cards accrediting them as members of the judiciary; cases in which members of the military police were denounced as involved in death squad crimes and no action had been taken to investigate their responsibility; and the case of a former senior police officer convicted of the killing of a child who had never been taken in to serve his prison term in spite of his whereabouts being public knowledge.

75. In connection with the above nine cases, the Special Rapporteur referred, in all his cables, to paragraph 4 of the Principles Relating to the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council in its resolution 1989/65 of 24 May 1989, to the principles embodied in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. He further appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the persons concerned and requested information on those measures, as well as on the investigation carried out by the authorities in those cases.

Government replies

76. On 8 January 1991, a reply was received from the Government of Brazil, further to two previous communications dated 7 and 12 December 1990 (see E/CN.4/1991/36, paras. 56 to 63) sent in response to the Special Rapporteur's urgent message of 29 November 1990 regarding alleged death threats received by Osmarino Amancio Rodrigues, Secretary of the National Rubbertappers Council, and the reported failure of the Acre State authorities to protect his life. It was stated that the Ministry of Justice had once more asked the Acre State authorities to take all steps necessary to ensure Mr. Amancio Rodrigues's safety.

77. On 25 February 1991, another reply was received from the Government of Brazil regarding several cases already mentioned by the Special Rapporteur in his report to the forty-seventh session of the Commission on Human Rights (E/CN.4/1991/36). The information concerned the following persons:

(a) Wolmer do Nascimento (see paras. 44 and 53). Since late November 1990, Mr. do Nascimento had been under the permanent protection of three agents of the Federal Police. In his capacity as Coordinator of the National Street Children's Movement, he had been participating in all initiatives taken by the Government of Brazil to combat violence against minors and to provide abandoned children with better care and living conditions;

(b) Osmarino Amancio Rodrigues (see paras. 46, 55, 56, 61-63) and Ilzamar Mendes (see para. 31). Police protection had been extended on a full-time basis to both persons. However, Mr. Amancio Rodrigues decided after having received protection for some time to dispense with such protection;

(c) Simone Amaral Cerqueira (see paras. 41 (a) (i), 51 and 52). The reply given by the Government of Brazil was not correctly reproduced in paragraphs 51 and 52. All four individuals involved in the death of Mrs. Cerqueira were brought to trial and sentenced to terms of imprisonment ranging from 2 1/2 to 37 years;

(d) Mário Davis (see paras. 41 (b) and 60) and Damião Mendes (see paras. 41 (b) and 60). Thorough investigations were conducted by the Federal Police which confirmed the allegations. The suspected murderers were awaiting trial;

(e) Francisco "Chico" Mendes (see para. 32). The jury trial of the murderers of Francisco "Chico" Mendes took place in December 1990. The two men directly and indirectly responsible for his murder (Darli Alves da Silva and Darci Pereira Alves) were each sentenced to 19 years in prison.

78. On 8 April 1991, the Special Rapporteur received a reply from the Government of Brazil in response to his urgent appeals dated 5 February and 8 March 1991. It was stated that the Council for the Defence of the Rights of the Human Person (Conselho de Defesa dos Direitos da Pessoa Humana - CDDPH) had recently held an extraordinary session devoted entirely to examining the problem of violence resulting from land disputes and that this session had

taken place against the background of the recent murder of Expedito Ribeiro de Souza, leader of the Rural Trade Workers' Trade Union of Rio Maria, Pará, as well as of reported death threats against the lives of other trade unionists in southern Pará (in the region known as "Bico do Papagaio"). It was also stated that the Ministry of Justice had:

(a) Recommended that protection by the Federal Police be given to Tania Maria Salles Moreira on her way to and from the Duque de Caizas court. She was already receiving such protection;

(b) Offered the material and human resources of the Federal Police to the State Governor of Pará, in connection with the attack against Carlos Cabral Pereira;

(c) Requested the Governor of Pará to ensure the physical integrity of Mr. Cabral Pereira and all those allegedly under threat according to the Comissão Pastoral da Terra;

(d) Through the CDDPH, requested the state authorities to give assurances to Manoel Pereira da Silva against death threats.

79. On 10 April 1991, a communication was received from the Government of Brazil transmitting a document prepared by the Representative of UNICEF in Brazil concerning the problem of violence against minors in that country and the efforts being made by the Brazilian Government to combat it.

80. On 6 June 1991, another reply was received from the Government of Brazil to the Special Rapporteur's cable of 5 February 1991 (see para. 64 above) regarding allegations of violence resulting from land disputes. The Minister of Justice stated that the murderers of José Alves de Souza had been arrested and that an enquiry was under way. The Minister had also requested information from the State of Pernambuco on the steps taken to investigate the murder of José Hélio da Silva and to protect the lives of João Lucas da Silva, Cícero da Silva, José Cícero da Silva and Ms. Maria Aparecida Pedrosa Bezerra da Silva.

81. On 3 September 1991, a third reply was received from the Government of Brazil to the Special Rapporteur's cable of 5 February 1991 (see para. 64 above): the Minister of Justice had been informed by the Federal Police that João Lucas da Silva and Cícero da Silva had requested that police protection be withdrawn, and that José Cicero da Silva and Maria Aparecida Pedrosa Bezerra da Silva were not receiving special protection as their whereabouts were unknown.

Burkina Faso

1. Appeals for urgent action

82. During 1991, no appeals for urgent action were sent by the Special Rapporteur.

2. Other cases transmitted by the Special Rapporteur

83. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Burkina Faso transmitting the case of a medical student who had died in incommunicado detention in May 1990, allegedly after having been subjected to torture by police agents. According to the information received, no official inquiry had been conducted into the case.

84. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Burkina Faso to provide him with information on the above-mentioned case, and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Burundi

Appeal for urgent action

85. On 27 November 1991, the Special Rapporteur sent a cable to the Government of Burundi transmitting allegations that, in November 1991, six persons, including four children, had been executed by soldiers; it also seemed that the life and physical integrity of Isidore Ciiza might be threatened. According to the information, following attacks on military installations at Bujumbara and in the provinces of Bubanza and Citiboke, Mr. Ciiza, a farmer and taxi driver, had been denounced to the soldiers of the Muzinda garrison as possessing arms; fearing arrest or execution, Mr. Ciiza allegedly hid. Around 26 November 1991, six soldiers reportedly went to his home at Mazinda, and after searching in vain for weapons killed Maria Mawazo, Mr. Ciiza's wife, their son Nduwimana (aged five) and daughter Anita (aged four), two other children, Guillaume (aged eight months) and Gorotti (aged six), and Générose (aged 18), the family's maid; Mr. Ciiza's second wife, Tabu, would appear to have been seriously injured. Mr. Ciiza allegedly fled to Bujumbara, but on his return to Muzinda, a week later, he was apparently arrested on the orders of a government official. According to the information received, he was tortured during his detention at the headquarters of the Special Research Brigade (BSR). In view of this information, there are reasons to believe that Mr. Ciiza's life and physical integrity could be in danger.

86. In this connection, the Special Rapporteur referred to the principles embodied in the Universal Declaration of Human Rights, particularly article 3, and in the International Covenant on Civil and Political Rights, particularly article 6. He also referred to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and in particular to paragraphs 4, 5, 9 and 10, which are based on the fundamental principle that the amount of force used should be in proportion to the objectives to be achieved, and to the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions and the means of conducting efficient investigations into such executions.

87. No reply had been received from the Government of Burundi at the time this report was prepared.

Chad

1. Appeals for urgent action

88. During 1991, no appeals for urgent actions were sent by the Special Rapporteur.

2. Other cases transmitted by the Special Rapporteur

89. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Chad transmitting information he had received about the alleged extrajudicial execution of more than 300 political prisoners shortly before former President Hissein Habré fled to neighbouring Cameroon on 1 December 1990. These prisoners had reportedly been detained incommunicado at the President's headquarters in the capital, N'Djamena. According to the source of information, their bodies were either thrown into the Chari river or left at the headquarters.

90. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Chad to provide him with information on the above-mentioned case, and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

China

1. Appeals for urgent action

91. On 15 March 1991, the Special Rapporteur sent a cable to the Government of China concerning the alleged imminent execution of five persons. The cases brought to the attention of the Special Rapporteur were described as follows:

(a) On 8 February 1991, Radio Lhasa announced that in Chamdo, the Peoples' Intermediate Court had sentenced to death Ap Ho. He was charged with "intentional murder and robbery". No details were given to substantiate the charges alleged, nor of the pre-trial or trial procedures;

(b) On 25 February 1991, Radio Lhasa announced that the Shigatse Intermediate Court had sentenced to death Kelsang Tsering, Migmar Tsering and Mr. Penpa. No details of the charges were given, nor were details given of the pre-trial or trial procedures;

(c) On 11 March 1988, Lobsang Tenzin was arrested along with five other Tibetan youths for his alleged killing of a Chinese policeman, Mr. Yuan Shisheng, during a pro-independence demonstration in Lhasa on 5 March 1988. On 19 January 1989, Mr. Tenzin was sentenced to death on the grounds of being a "principal culprit" in the aforementioned alleged killing. At that time, the execution of the sentence was suspended for two years. That two-year period had now expired and by an official announcement of 27 December 1990, the Government announced its intention to carry out the execution. Mr. Tenzin was reportedly subjected to torture, including suspension from the ceiling for a week, denial of food for periods of several weeks, continuous severe beatings and in solitary confinement during which time his hands and feet were chained.

92. The Special Rapporteur expressed his concern for the lives of the above-mentioned persons and appealed to the Government to take all necessary measures to ensure that the minimum standards for a fair trial were respected in accordance with the fundamental principles embodied in the Universal Declaration of Human Rights and reiterated in the International Covenant on Civil and Political Rights and in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

93. On 21 March 1991, another letter was sent to the Government of China concerning the alleged imminent execution of Wang Xiguo, an unemployed construction worker from Wuxue town in Hubei province, who was charged by the prosecution with the theft of some 20,000 yuan from an unspecified company. No further details of the crime were available. Mr. Wang was recently sentenced to death for armed robbery by the Intermediate People's Court following a trial which may have failed to satisfy minimum international standards. It was further alleged that trial procedures in China often fell short of international standards for fairness. Defendants did not always have access to lawyers, and when lawyers were available they had no more than one or two days to prepare a defence. Death sentences were often decided in advance of the trial by "adjudication committees" whose decision was seldom challenged by the courts. Finally, while a right of appeal might be available de jure, defendants were often unable to make effective use of such recourse either because the appeal process was pro forma or because legal representation was not available to the defendant prior to and during the appellate proceedings.

94. The Special Rapporteur expressed his concerns for the life of Mr. Wang and, in that connection, appealed to the Government to take all necessary measures to guarantee the protection of the rights of those facing the death penalty, and requested information on the above-mentioned case.

Government reply

95. On 14 May 1991, a reply was received from the Government of China to the Special Rapporteur's urgent messages dated 15 and 21 March 1991. The reply stated that inquiries concerning the case of Lobsang Tenzin indicated that before his conviction he was a student at the University of Tibet; he was condemned to death for wilful homicide, the sentence being suspended for two years. In accordance with the relevant provisions of Chinese legislation and his own manifest wish, he was executed in February 1991 when the two-year suspension ran out. Allegations that he was held in solitary confinement, tortured and beaten were pure rumour-mongering. As regards the "affair" of the death sentences carried out on Ap Ho, Kelsang Tsering, Mi Gmar and Pen Pa, they were all common criminals, sentenced separately by the local courts in accordance with the laws concerning murder and robbery. In the course of the hearings and judicial proceedings, the Chinese law enforcement agencies returned fair verdicts, taking the facts as their starting-point and the law as their criterion. Wang Xiguo, aged 33, originally a worker at an equipment factory in Wuxne, Hubei province, was tried and sentenced to death on 15 January 1991 by the Huanggang District Intermediate People's Court in Hubei for a robbery committed in September 1990. He appealed, and on 1 March 1991 the Hubei Province Higher People's Court issued a final judgement suspending his death sentence for two years. Suggestions that Wang faced early execution were not in keeping with the facts.

96. It was also stated that Wang Xiguo was a criminal who had committed robbery with violence and, under the Chinese Penal Code, robbers might, in grave circumstances, be condemned to death. The case was tried openly by the Chinese law enforcement agencies, the public attended the trial proceedings, the accused's appointed defence lawyer appeared in court and conducted the accused's defence, and before the trial began the lawyer was given a week to consult the archives. The whole trial was conducted within the time-limits laid down by the Chinese Code of Criminal Procedure and the procedural rights of the accused were afforded ample safeguards.

2. Other cases transmitted by the Special Rapporteur

97. On 8 November 1991, the Special Rapporteur sent a letter to the Government of China transmitting 28 cases of alleged summary or arbitrary executions. According to information received by the Special Rapporteur, three people were executed by the Chinese authorities between April and October 1990, for theft and colluding to steal. Reportedly, they were executed following a trial which is said to have failed to meet minimum fair trial standards. On 14 October 1989, a factory worker was executed by the authorities for destruction of property. He was reportedly executed following a trial which is said to have failed to meet minimum fair trial standards. It was also reported that between 22 June and 8 August 1989, 11 workers were allegedly executed by the authorities after being detained during the demonstration in 1989 in Tiananmen Square. Reportedly, they were executed following a trial which is said to have failed to meet minimum fair trial standards. On 22 August 1989, a Tibetan painter had allegedly died as a result of severe beatings in prison by the authorities at Drapchi prison. On 15 December 1990, it was reported that a student allegedly died as a result of torture by the prison authorities at Drapchi prison. Reportedly, he was arrested on 5 December 1990 together with five other Tibetan students, and accused of having allegedly formed a "counter-revolutionary" organization called the Gangchen Mountain Range Youth Association and having posted "reactionary" posters in central Lhasa which called for Tibet's independence. A Tibetan reportedly died a day after being released from prison, allegedly as a result of severe beatings and other forms of torture in prison, by the authorities. On 6 July 1991, a Tibetan residing at Lhasa was stabbed by a policemen in the market area (Trumsikgang) during a peaceful demonstration.

98. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of China to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Colombia

1. Appeals for urgent action

99. On 21 February 1991, the Special Rapporteur sent a cable to the Government of Colombia concerning Mónica Sánchez Arrieta, a lawyer who had devoted herself for the past six years to defending human rights in Medellín, department of Antioquia, and who apparently, on 5 February 1991, had received telephone calls accusing her of defending guerrilla fighters and threatening

her with death. Two days later, it was alleged that she received a "sufragio" (invitation to her own funeral) for 10 February. According to the report, Ms. Sánchez Arrieta had acted as counsel for the Committee for Solidarity with Political Prisoners (CSPP) and had defended political prisoners and investigated cases of extrajudicial executions, disappearances and torture in which members of the security forces were implicated. The threats were allegedly reported to the Antioquia District Attorney, the Committee on Human Rights of the Office of the Attorney General and the Committee on Human Rights of the National Directorate of Criminal Investigation.

100. In connection with the above information, the Special Rapporteur referred to Commission on Human Rights resolution 1991/70 of 6 March 1991 which urges Governments to refrain from all acts of intimidation or reprisals against individuals and groups who seek to cooperate with the United Nations and representatives of its human rights bodies. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned person and in addition requested information on those measures as well as on the investigation carried out by the authorities in that case.

101. On 22 February 1991, another message was addressed by the Special Rapporteur to the Government of Colombia concerning Hernando Pinto. It was reported that Mr. Pinto, a peasant leader of the locality of El Carmen, municipality of San Vicente de Chucuri, department of Santander, had been threatened by a lieutenant from the El Carmen military base, Luciano d'Eluyas Battalion, who apparently accused him of fomenting revolt among the peasant communities in the region, thus giving him reason to fear for his life. The incident allegedly took place on 3 February 1991 in the presence of witnesses and in the course of a meeting convened by the commandant of the military base for the purpose of urging the peasants to support paramilitary groups. In November 1990, Mr. Pinto had also apparently been threatened by members of the mobile brigade and his wife had been detained and ill-treated.

102. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned person and requested information on those measures as well as on the investigation carried out by the authorities in that case.

103. On 10 May 1991, the Special Rapporteur sent another urgent message to the Government of Colombia concerning Elkin de Jesús López Ospina, a peasant leader and member of the Municipal Committee for the Defence, Protection and Promotion of Human Rights, in the municipality of Tibu, north Santander, who had allegedly received death threats. After some years of persecution by the security forces, he reportedly received death threats last April from a paramilitary group which was suspected of having links with the army. On 18 April 1991 he was said to have reported these incidents to the municipal attorney.

104. On 30 July 1991 the Special Rapporteur sent a cable to the Government of Colombia concerning information that on 13 July 1991 three armed men had come to the house of Hugues López, a primary school teacher living with his family in the town of Convención, in the municipality of Teorama, in the north of the Santander department and had trained their weapons on him; Mr. López had

managed to escape through a neighbour's house, but his own home and that of his neighbour were raided and searched. The armed men were apparently recognized by neighbours as belonging to the "Rook" battalion of the army stationed at a nearby military base. Mr. López has had to leave his job and go into hiding to avoid being killed. Concern was also expressed for his family.

105. On 7 October 1991 a cable was sent to the Goverment of Colombia in connection with Edwardo Umaña Mendoza, a lawyer who had apparently received recent death threats, notably in the form of a telephone call on 1 October. It was also reported that the threats were in connection with his status as legal representative of the Palacios family, some of whose members were murdered on 18 September 1991 in Fusagasuga (Cundinamarca). The widow, Mrs. María de Palacios had also been threatened on account of the complaint she had laid about the murders.

106. On 4 November 1991, a cable was sent to the Government of Colombia concerning death threats allegedly received by Antonio Sanguino, a sociologist and leader of the Colombian Youth Workers' Organization in Bucaramanga (Santander department). Mr. Sanguino, reportedly informed the regional Procurator in a letter of 30 September 1991 that unknown persons had left written threats at two postal addresses. The documents were addressed to him and consisted in "sufragios" inviting him to a funeral mass for his own soul and a threatening note consisting of letters cut out of newspapers. After receiving these threats Mr. Sanguino, fearing for his life, left his work and his home in Bucaramanga. In his cable the Special Rapporteur also referred to information that Edward Alvarez Vacca, the leader and coordinator of the Committee for the Defence of Human Rights of Ocaña, North Santander department, as well as other members of the organization had received threats.

107. On 7 November 1991, another cable was sent to the Government of Colombia in connection with the death of Hugues López on 13 October 1991 in circumstances which suggested that he may have been the victim of an extra-legal execution.

108. On 13 November 1991, a cable was sent to the Government of Colombia stating that according to information received, the lawyer Edwardo Umaña Mendoza had constantly been receiving death threats. According to that information, Mr. Umaña had received anonymous telephone calls in his office and at home warning him that "there's nowhere for you to hide, we will always know where you are". These telephone calls occurred despite the protection provided by the Government to safeguard Mr. Umaña's physical integrity. The Special Rapporteur appealed once again to the Government to take the necessary measures to protect the life and physical integrity of Mr. Umaña.

109. On 13 November 1991, a further cable was sent to the Government of Colombia concerning information concerning the lives and physical integrity of four primary school teachers, members of provincial teachers' trade unions. According to the complaint, on 17 October 1991 an envelope slipped under the door of the headquarters of the Santander teachers' trade union in Bucaramanga, contained death threats directed at David Flores González, the Secretary-General of the trade union, and other members. At the same time, in Arauca department, "sufragios" had been sent to José Angel Lasso Sierra,

Chairman of the Arauca Teachers' Association, to Barreto Arenas, member of the urban trade union, and to the treasurer, Enrique Pertuz. The rector of the Rafael Pombo secondary school, in Saravena, Arauca, also received a "sufragio" according to the information received. These "sufragios" apparently contained invitations to attend their own funeral masses. Against the background of these incidents and the fact that members of the teaching profession have been victims of extra-legal executions, according to the report of the Colombian Teachers' Federation (FECODE), 47 teachers have allegedly been assassinated since the beginning of 1991 and more than 400 have received death threats.

110. On 29 November 1991, a cable was sent to the Government of Colombia in connection with information received that the life and physical integrity of David Flores González was threatened. According to the information received, Mr. Flores González lives in Bucaramanga and is a teacher and a member of the Workers' Trade Union of Santander (USITRAS) and of the Teachers' Trade Union of Santander (SES), of which he is currently Secretary-General. At 8 a.m. on 17 October 1991 a person on a motorbike allegedly slipped an envelope under the door of the SES headquarters containing a photocopied sheet bearing a black hand and a text composed of cut-out letters and words, containing a death threat. It is alleged that "Black Hand", the group from which the threat probably came, is linked to the armed forces, and that other trade unionists and teachers had previously received threats from it.

111. On 18 December 1991 the Special Rapporteur sent a cable to the Government of Colombia concerning William Peña Barrios and Ramiro Antury. According to the information received, Mr. Peña Barrios and Mr. Antury, lawyers belonging to the Committee for Solidarity with the Political Prisoners of Cali, received a written death threat on 6 December last signed by a paramilitary group called Death to Communists (MAC). Both had received other threats, apparently related to their activities in the judicial investigation into the assassination of the trade unionist Jorge Eliécer Agudelo in 1989. It would seem that members of the armed forces admitted responsibility in this case.

112. In connection with the nine cases mentioned above, the Special Rapporteur referred in all his cables to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by Economic and Social Council in resolution 1989/65 of 24 May 1989, to the principles contained in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. He also asked the Government of Colombia to take all measures at its disposal to protect the lives and physical integrity of the persons referred to above and also requested information on those measures and on the investigations carried out by the authorities in these cases.

Government reply

113. On 23 January 1991 a reply was received from the Government of Colombia to the Special Rapporteur's cable of 9 November 1990 (see E/CN.4/1991/36, paras. 116 and 117) transmitting information on the following cases:

(a) John Jairo Galindo and John Edward Fandiño Correa (see para. (117 (a) (i)): This case was included in the list of the Inter-Institutional Group, consisting of the Office of the Presidential

Adviser for the Defence, Protection and Promotion of Human Rights, the Office of the Attorney-General of the Nation and his delegates for the supervision of the national police, for the armed forces and for the defence of human rights, the Minister of Labour and Social Security, the National Directorate for Pre-Trial Proceedings, the Administrative Security Department (DAS) and the Ministry of Foreign Affairs. Information was requested from the Office of the Attorney Delegate for the Supervision of the National Police, the Director of Pre-Trial Proceedings of Antioquia and the Departmental Procurator. It may be noted here that the National Directorate for Pre-Trial Proceedings indicated that, despite enormous efforts made to obtain further information on some of the cases in question, it could not be supplied in time, owing to poor communication in some areas, such as certain parts of Antioquia;

(b) Julio César Arias Castano (see para. 117 (a) (ii)): The situation here is the same as that described above. Information was requested from the Section Directorate for Pre-Trial Proceedings in Medellín, the (Teachers' Association of Antioquia) (ADIDA) and the Departmental Procurator;

(c) Américo Torres Ibarguén and Claudio Benítez (see para. 117 (a) (iii)): The Section Directorate for Pre-Trial Proceedings of Antioquia reported that Criminal Examining Court No. 65 of Turbo municipality had assumed responsibility for the case and had instituted criminal proceedings;

(d) Pedro Pablo Ospina (see para. 117 (a) (iv)): The Section Directorate for Pre-Trial Proceedings of Cali reported that, pursuant to article 347 of the Code of Criminal Procedure and an order of 15 August 1990, the investigation by the court hearing the case had been suspended and referred to the Investigation Unit of the Technical Corps of Judicial Police. The file contained the evidence collected, and particularly the statements taken;

(e) Apolinar Fabra (see para. 117 (a) (viii)): Information was requested from the Office of the Regional Procurator of Apartadó and the Section Directorate for Pre-Trial Proceedings of Antioquia. No reply had yet been received. This case was included in the list of the Inter-Institutional Group;

(f) Jorge Alberto Echeverri and Emilio Copete (see para. 117 (a) (ix)): The Section Directorate for Pre-Trial Proceedings of Medellín informed the National Directorate that the trial for the homicide of Echeverri was being conducted by Criminal Examining Court No. 48 of Medellín. On 18 July 1990 the investigation began and a number of statements were taken. It was also noted that it was for Standing Criminal Examining Court No. 77 to arrange the removal of the body of Emilio Copete Amijo; on 18 July, the preliminary formalities were complied with; criminal proceedings were initiated in Criminal Examining Court No. 54 of Medellín;

(g) Alvaro Gómez Padilla (see para. 117 (a) (x)): The Section Directorate for Pre-Trial Proceedings of Montería reported that this homicide took place in the town of Sahagún on 15 July 1990. On 17 July, Criminal Examining Court No. 14 of that town initiated the preliminary investigation;

(h) Ramón Hernández and Fredy Enrique Mejiá (see para. 117 (a) (xi)): Information was requested from the Office of the Provincial Procurator of Apartadó, the National Directorate for Pre-Trial Proceedings and the Section Directorate of Antioquia. This case was included in the list of the Inter-Institutional Group;

(i) Héctor Castro, Roque Jiménez and Leonel Sumaque (see para. 117 (a) (xii)): Information was requested urgently from the bodies listed in the previous paragraph. A reply was expected. This case was included in the list of the Inter-Institutional Group;

(j) Leopoldo Calderón (see para. 117 (a) (xvii)): The case was being investigated by the Preliminary Investigation Unit of Barrancabermeja. A report had been submitted to the Investigation Division of Bogotá, and it will be transmitted as soon as the Government receives it;

(k) Roel Alvis (see para. 117 (a) (xiii)): the Provincial Procurator of Girardot reported that Criminal Examining Court No. 10 of El Espinal, Tolima, was conducting the preliminary investigation in this case and that full use was being made of internal legal resources;

(l) Esteban Palmet Domínguez (see para. 117 (a) (xiv)): An urgent request was sent to the Office of the Provincial Procurator of Apartadó and the Section Directorate for Pre-Trial Proceedings of Antioquia. This case was included in the list of the Inter-Institutional Group;

(m) Luis Eduardo Calderón (see para. 117 (a) (xv)): The steps described in the previous paragraph were taken. The Government was awaiting a reply;

(n) Pablo Antonio González and John Jairo Gómez Rueda (see para. 117 (a) (xvi)): The Section Directorate for Pre-Trial Proceedings, César, Guajira, reported that the Municipal Mixed Court of San Alberto (César) had, since 29 October 1991, been conducting the preliminary proceedings connected with the homicide of González and Gómez Rueda, which took place in the district (corregimiento) of las Llanas in the jurisdiction of San Alberto municipality. By resolution 623 of 14 December 1990, the First Circuit Judge of Valledupar was appointed and authorized to make a three-day visit to San Alberto to collect evidence;

(o) Henry Delgado, Luis Antonio Meza and Beatriz Elena Méndez (see para. 117 (b) (i)): Criminal proceedings for the homicide of Delgado were initiated before Criminal Examining Court No. 15 of Barrancabermeja. This court transferred the case to the Municipal Court of Betulia. Criminal proceedings with regard to the deaths of Luis Antonio Meza and Beatriz Elena Méndez were initiated in Criminal Examining Court No. 14. According to the latest information, Military Criminal Examining Court No. 24 of Barrancabermeja undertook to try these cases since the events in question had taken place during a clash with the National Army. The Barrancabermeja Office of the Provincial Procurator reported that Mr. Segundo Guarín Pinto had been appointed as inspecting lawyer in the preliminary investigation to determine the possible responsibility of members of the National Army as a result of the complaint laid by Luis Francisco Durna. The complainant was summoned to confirm his statement and a number of witnesses to give evidence. Additional

information was requested from the Office of the Procurator Delegate for the Armed Forces; the Government was expecting a reply. This case was included in the list of the Inter-Institutional Group;

(p) Jacinto Quiroga (see para. 117 (b) (ii)): Information was requested from the Office of the Procurator Delegate for the Armed Forces, the Barrancabermeja Office of the Provincial Procurator and the Pre-Trial Proceedings Unit. The Secretary of this Unit reported that proceedings in connection with the homicide of Mr. Quiroga had been in progress before Military Criminal Examining Court No. 23 - Artillery Batallion No. 5, Galán, El Socro - since 10 September 1990. Prior to that date the case had been handled by the First Municipal Justice of the Peace of Bolívar;

(q) Silvie Feldmann and Tomás Rodríguez (see para. 117 (b) (iii) and (iv)): The investigation of the violent incidents in which the Swiss nun and a Colombian citizen died was being conducted by the First Public Order Magistrate of Pasto-Nariño, who had carried out on-the-spot inquiries. According to the report submitted to the Office of the Human Rights Adviser by the Commander-in-Chief of the Colombian military forces, the deaths had taken place in a combat situation. An army patrol had been attacked from a house by guerrillas of the Revolutionary Forces of Colombia (FARC) near the "Sande" hunting reserve. Apparently, according to the Commander-in-Chief of the military forces, the Swiss nun had been in the house looking after an invalid. The troops found various weapons, armed forces uniforms and campaign equipment in the house and the surrounding area. The Departmental Procurator of Nariño ordered a special inspection by the First Public Order Prosecutor. The Office of Special Investigations of the Office of the Attorney-General of the Nation sent two inspectors who made a number of inquiries on the spot. According to the most recent information obtained, the Public Order Magistrate referred the investigation to military criminal courts. It was difficult to obtain information on the results of the most recent investigations carried out in the context of the military criminal proceedings since they were at the pre-trial stage and therefore subject to reservation; making them public might obstruct the course of justice;

(r) Maria Zenaida García Gómez, Luz Elida Duque García, Ramón Evelio Rúa and Horacio Graciano (see. para. 117 (b) (v)): Information was requested from the Office of the Procurator Delegate for the Armed Forces and the National Directorate for Pre-Trial Proceedings. This case was included in the list of the Inter-Institutional Group;

(s) Germán Antonio Parada (see para. 117 (b) (vi)): The Office of the Departmental Procurator of Norte de Santander initiated an urgent preliminary investigation of the case. It originated in the complaint laid by Mrs. María Antonia Jiménez Parada and the endorsement and extension of the complaint. At the same time, the Departmental Prosecutor took a number of statements. Subsequently, the case was remitted to the Office of the Procurator Delegate for the supervision of the armed forces, which is at present in charge of the investigation. The municipal Procurator of Arboledas indicated that the First Court of Public Order of Cúcuta, capital of North Santander, was handling the investigation into the alleged homicide and arbitrary detention of Germán Antonio Parada. In an order of 6 August 1990, this Court initiated a preliminary investigation against persons unknown

(members of the National Army) for the crime of homicide against the person of Germán Antonio Parada. By an order of 15 August 1990, a criminal investigation was initiated against Raúl Ramírez Castellanos, Captain of the National Army, and others, for the above-mentioned crime. On 26 September 1990, it was decided to remit the proceedings to Criminal Military Examining Court No. 25 which was considered competent to investigate the case and give judgement;

(t) Ricardo Henry Montenegro Paz (see para. 117 (b) (vii)): Information was requested from the Section Directorate for Pre-Trial Proceedings of Antioquia and from the Caucasian Section Office of the Office of the Attorney-General of the Nation. A reply was expected. This case was included in the list of the Inter-Institutional Group;

(u) Edmundo Villamizar and Orlando de Jesús Ortega Chiqunque (see para. 117 (b) (viii)): Information was requested from the National Directorate for Pre-Trial Proceedings, which gave the request priority and reported that the preliminary investigation had been initiated by the Technical Corps of the Judicial Police of Bogotá under the direct supervision of the Section Director for Pre-Trial Proceedings of Cundinamarca, and that special importance had been attached to the criminal investigation;

(v) Filemón Cala Reyes (see para. 117 (b) (ix)): Information was requested from the Section Directorate for Pre-Trial Proceedings of Santander, the Ocaña Section Office of the Office of the Attorney-General of the Nation and the Office of the Prosecutor Delegate for the supervision of the military forces. This case was included in the list of the Inter-Institutional Group;

(w) Osvaldo Recalde (see para. 117 (b) (x)): The Pasto Section Director for Pre-Trial Proceedings reported that the pre-trial proceedings connected with the death of Recalde had initially been handled by Criminal Examining Court No. 11 of Cali, Valle, which had subsequently, on 28 August 1990, remitted the case to the Pre-Trial Proceedings Office in Puerto Asís, Putumayo, since it was competent in the matter. Additional information was requested from the Nariño Office of the Departmental Procurator;

(x) Javier Francisco Cardona (see para. 117 (c) (i)): Information was requested from the Office of the Procurator Delegate for the supervision of the military forces, the Ocaña Section Office of the Office of the Attorney-General of the Nation and the Section Directorate for Pre-Trial Proceedings in Santander. This case was included in the list of the Inter-Institutional Group;

(y) Leonor Sarmiento (see para. 117 (c) (ii)): Criminal Examining Court No. 7 of San Vicente reported that the file of the case concerning the homicide of Leonor Sarmiento had been sent to Military Criminal Examining Court No. 130 - local Luciano d'Elhuyar Battalion. It was registered as case No. 356 against members of the National Army. Additional information was requested from the Office of the Procurator Delegate for the supervision of the armed forces. The reply will be transmitted as soon as it is received.

(z) Juan and Eliseo Caballero (see para. 117 (c) (iii)): The same action was taken as in the two previous cases. The person in charge of the preliminary investigation of San Vicente said that it was being carried out in that Unit, and that the case had been registered as No. 310;

(aa) Ariel Vargas Ardila (see para. 117 (c) (iv)): Information was urgently requested from the Section Directorate for Pre-Trial Proceedings of Santander, the Office of the Departmental Procurator of the Region and the Office of the Procurator Delegate for the supervision of the armed forces. The case was included in the list of the Inter-Institutional Group;

(bb) Ana Isabel Florez, José Agustín Olivares, Rafael Ayazo and Eido José Bravo (see para. 117 (b) (xi)): The National Directorate for Pre-Trial Proceedings reported that the investigation was being handled by Public Order Court No. 2, with the assistance of two agents who had been assigned to the case by the Section Director of Córdoba and who were on the point of submitting their report. The file was fairly voluminous, consisting of 500 pages.

114. On 4 February 1991, another reply was received from the Government of Colombia to the cables sent by the Special Rapporteur on 3 December (see E/CN.4/1991/36, para. 118) and 9 November 1990 (ibid., paras. 116 and 117 (a) (iv) and (vii)). This reply conveyed information on the case of Father Rafael Martínez Mora. The Government immediately reported the facts to the Director of DAS, the Regional Procurator of Bolívar, the Procurator Delegate for Human Rights, the Municipal Procurator of Pinillos and the Office of the Presidential Adviser for the Defence, Protection of the Promotion of Human Rights, so as to enable them to take the necessary steps to guarantee the lives and integrity of those under threat. According to the most recent information received from the Office of the Presidential Adviser, it was established in telephone conversations on 24 and 28 December 1990 with the Bishop of Magangué and the Father Superior of the Order of Franciscan Friars to which Father Martínez belonged that he had been out of the country for some time. It was not specified where or since when. The Bishop stated that he had not asked the Government for any kind of personal protection for Father Martínez, since security conditions in the area made such protection unnecessary. The Deputy Chief of the Joint General Staff of the Armed Forces expressed a similar opinion. The Office of the Procurator Delegate for Human Rights was in charge of the investigations, the results of which were still not known.

115. As regards the other cases notified, the Government was awaiting information that had been requested from the National Directorate for Pre-Trial Proceedings and the Office of the Presidential Adviser for Human Rights. In the absence of a complaint on a particular case, that office was required to initiate an investigation.

116. The National Directorate for Pre-Trial Proceedings had provided the Special Rapporteur with the following information concerning the cases of Héctor Mario López and Pedro Pablo Ospina. Criminal Examining Court No. 14 of Cali was conducting the criminal proceedings in respect of the homicide of Héctor Mario López. It had been agreed with the presiding Judge that a working mission should be organized to request more extensive statements and

prepare an Identikit portrait. The Court welcomed the suggestion by the local Human Rights Unit and approved a 45-day working mission (No. 047) on 26 September 1990. This mission completed its work, submitted a report referring to the "Parche Pelesiño" and prepared two Identikit portraits. By an interlocutory order of 23 November, and on the basis of article 347 of the Code of Criminal Procedure, the text of which was included in the previous note, provision was made to remit the file to the Technical Corps of the Judicial Police. The Preliminary Investigation Unit initiated its inquiries with the order of 4 December 1990. In view of the results and because the alleged perpetrator of the crime could be partially but not completely identified it was decided on the basis of article 128 of the Code of Criminal Procedure to return the file to the court so that it could continue with the investigation.

117. The case of Petro Pablo Ospina was referred to the Investigation Unit of the Technical Corps of the Judicial Police. Investigations carried out in the company in which the dead man had worked and a statement by the Chief of the Yumbo (Valle) Terminal revealed that he had been an employee with numerous personal problems, apparently completely unrelated to his trade union activities. The Preliminary Investigation Unit, for its part, found that it was assumed in file UIP No. 3627, dealing with the homicide of José Antonio Ruiz Acuña which had taken place on 12 June 1990, that there was a link with the death of Ospina. A statement contained in that file referred to a man called "Lucho", who several days previously had asked Ruiz Acuña to protect him and not to denounce him for the death of Ospina. On the basis of these facts, the Preliminary Investigation Unit ordered working missions Nos. 0262 and 0263 to begin work immediately.

118. Also on 4 February 1991 a further reply was received from the Government of Colombia to the Special Rapporteur's cable of 9 November 1990 (see E/CN.4/1991/36, paras. 116 and 117) containing information on the following cases:

(a) Jorge Alberto Echeverri Vargas (see para. 117 (a) (ix)): Criminal proceedings in connection with the homicide of Echeverri were in progress before Criminal Examining Court No. 48 of Medellín. Evidence was being gathered in order to determine and identify the perpetrators of the crime. A number of statements had been taken; the investigation will remain open until pre-trial proceedings have been completed;

(b) Emiliano Armijo Copete (see para. 117 (a) (ix)): This case is before Criminal Examining Court No. 54 of Medellín. On 26 September 1990 the preliminary investigation was suspended and the file was sent to the Preliminary Investigation Unit of the Technical Corps of the Judicial Police of Medellín on 29 September. This Unit resumed the investigation, which is still in progress;

(c) Esteban Palmet Rodríguez (see para. 117 (a) (xiv)): The trial for the homicide of Palmet was before Criminal Examining Court No. 16. The Preliminary Investigation Unit of Apartadó reported that the victim was Director of the Middle School Institute (INEM) of that town. In 1989, incidents with eleventh-grade pupils had occurred when he told them that he would not give them their school certificates. The pupils sent notes

containing threats to Nelson Reyes and Nancy Jaramillo. According to the versions of some pupils - as yet unconfirmed - Palmet was involved in the theft and misappropriation of monies not belonging to him, and was apparently killed by three pupils: Maguin Arias Sáenz Martinez (tenth grade), José Nelson Minota García (eleventh grade) and Carlos Wilmar Londoño Díaz (who completed his studies in 1989); the last-mentioned is reported to have been part of a gang and was investigated for homicide. The necessary evidence is being gathered to determine the truth of the facts described and in order to arrest the alleged perpetrators. There have been no indications so far that the perpetrators of the crime had any links with State security or police bodies. The evidence collected seemed to indicate that they were common criminals motivated by personal reasons;

(d) Ricardo Henry Montenegro Paz (see para. 117 (b) (viii)): The investigation was being handled by Criminal Examining Court No. 40 of Tarazá. The National Directorate for Pre-Trial Proceedings had requested the legal officials in the case to activate matters;

(e) María Zenaida García Gomez, Luz Elida Duque García, Ramon Evelio Rúa and Horacio Graciano (see para. 117 (b) (v)): The Second Public Order Court of Medellín referred the case to the Tribunal in order to determine competence. The Tribunal decided that the authority which should deal with the case was the Fourth Brigade. The trial was transferred to Military Criminal Examining Court No. 21 presided by Dr. Armando Trucco;

(f) Julio César Arias Castaño (see para. 117 (a) (ii)): The investigation was initially conducted by the Technical Corps of the Judicial Police of Bolívar, Antioquia. In September 1990, the Corps transmitted the file to Criminal Examining Court No. 63 where a series of statements were being taken and the use of various means of identifying the perpetrator or accomplices in the crime had been ordered;

119. On 13 February 1991 a further reply was received from the Government of Colombia to the Special Rapporteur's cable of 3 December 1990 (see E/CN.4/1991/36, paras. 119 and 120), transmitting information on the following cases:

(a) Germán Antonio Redondo: On 17 January 1991 information was received that the First Public Order Court of Buga, Valle, after determining that Redondo had been a trade unionist, had undertaken an investigation into his death. It was reported in an official communication of 28 January that Dr. Gloria de la Pava, who was in charge of the Valle Section Human Rights Unit, had visited the court in question to see how the criminal proceedings were progressing. However, she could never have made this visit, since the court had on that day been transferred to the city of Cali, in accordance with the provisions of Decrees 2790 of 1990 and 099 of 1991 which had restructured the court system. The authorities had, in connection with the changes being made, suspended deadlines and reallocated proceedings that had already been initiated, which made it difficult to obtain information about the investigations in question. However, the Government stated that it was prepared to transmit any communications received concerning this case once the difficulty mentioned above had been overcome.

(b) Gloria Amparo Viveros Lucumy: The case had reached the preliminary investigation stage and was being handled by the Ninth Criminal Examining Court of Buga. The presiding magistrate had ordered evidence to be collected to establish the identity or the description of the perpetrators of the crime or the persons involved in it. A working mission had been arranged for the same purpose and its findings would be communicated to the Special Rapporteur as soon as they were received by the Government.

(c) Francisco Antonio Satizabal, Luis Alfoso Ciaskier and Jorge Ocampo: The bodies were removed by the Sixteenth Criminal Examining Magistrate of Santander de Quilichao, Cauca. The Valle Human Rights Unit handled the preliminary investigation on the basis of information supplied by the Office of the Provincial Procurator of Valle.

120. On 18 June 1991, a reply was received from the Government of Colombia to the Special Rapporteur's cable of 21 February 1991 in connection with the case of Mónica Sánchez Arrieta stating that, according to the investigation carried out by the Office of the Presidential Adviser for Human Rights, the Head of SIJIN had located the lawyer Mrs. Sánchez Arrieta in the Association of Employees of the Colombian Industrial Bank and had communicated with her by telephone. She said that she had not requested any protection, but had only lodged a complaint, and that the case was being investigated by DAS. The Chief of the Supervisory Police of Medellin reported that, following a lengthy conversation with the lawyer, she had explained that she was not a member of the Committee for Solidarity with Political Prisoners but that the Committee sometimes requested her professional services in specific cases.

121. On 16 August 1991, a reply was received from the Government of Colombia to the Special Rapporteur's cable of 10 May 1991 in connection with the case of Elkin de Jesús López Ospina stating that, according to the investigation carried out by DAS, there was reliable evidence that death threats had indeed been made. On 24 July 1991, DAS staff had gone to the municipality of Tihu, but despite their efforts they had been unable to interview the person allegedly threatened since, according to information supplied by his family, he was receiving medical treatment elsewhere, at an unspecified location. The authorities of the town said that they did not know the whereabouts of the person in question.

122. On 14 November 1991 a further reply was received from the Government of Colombia to the Special Rapporteur's cable of 7 October 1991 concerning threats received by Eduardo Umaña Mendoza. The reply stated that Umaña Mendoza had confirmed to the authorities that he had received serious threats by telephone and that he thought it was dangerous to leave his office. It was decided, in agreement with Umaña Mendoza, to seek the support of the investigation and security bodies of the Government of Colombia, and particularly the National Directorate for Pre-Trial Proceedings and DAS. Subsequently, the Deputy-Director for Pre-Trial Proceedings went to the office of Umaña Mendoza and arranged his return home with suitable protection. On the basis of an agreement between Umaña Mendoza and DAS, he was assigned an official escort and a special vehicle. This protection will continue so long as circumstances indicate that it is appropriate and Umaña Mendoza considers it acceptable. The National Directorate for Pre-Trial Proceedings embarked upon an investigation of the threats and assigned one of its best detectives to the task of trying to ascertain their origin.

2. Other cases transmitted by the Special Rapporteur

123. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Colombia transmitting allegations he had received, according to which more than 300 people had died between May 1990 and May 1991, victims of summary or arbitrary executions under the direct or indirect responsibility of the Colombian authorities. In 57 of the cases, the victims were leaders, activists and sympathizers of the Unión Patriótica (UP), a left-wing coalition opposition group, and the Colombian Communist Party, the two political organizations reportedly most affected by assaults by the Security Forces, paramilitary groups and civilian death squads. Some 100 cases concerned peasants and agricultural workers; seven victims were said to have been leaders of indigenous communities and four others were trade unionists. In 16 cases it was alleged that the death of the victims had been a result of torture. Three of those cases concerned student leaders who were reportedly killed by members of the Armed Forces in February and April 1991. Paramilitary groups and civilian death squads, allegedly condoned by the Colombian authorities, were said to have been the forces responsible for 170 of the killings, while more than 130 executions were attributed to members of the Armed Forces and the police.

124. In the same letter, the Special Rapporteur also transmitted to the Government of Colombia allegations of death threats allegedly received by 10 persons, among them a human rights lawyer, two leading members of the Unión Patriótica and an indigenous community leader. The death threats were said to have been issued by members of the army and paramilitary groups.

125. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Colombia to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Government reply

126. On 18 December 1991, a reply was received from the Government of Colombia to the Special Rapporteur's letter of 8 November 1991 containing information on the following cases:

(a) Juan Fernando Porras Martínez: As soon as the disappearance of this person, on 5 February 1990 in the city of Bucaramanga, Santander department, was reported, the Office of Special Investigations of the Office of the Attorney-General of the Nation initiated a preliminary investigation. On three occasions it ordered task forces to ascertain the whereabouts of Porras Martínez as well as the reasons for his disappearance and the possible perpetrators of his detention. One of the task forces that went to Bucaramanga and San Vicente de Chucurí discovered the body of a man with the physical features of Porras Martínez on 20 February 1990 in the hamlet of Agua Dulce of the Llana Fría district (corregimiento), part of the municipality of San Vicente de Chucurí. Although after fingerprinting it was decided that the body was that of someone else, further analysis of the evidence showed without doubt that the fingerprints were those of the man who had been known as Juan Porras Martínez;

(b) Mónica Sánchez Arrieta: The measures taken as a result of the death threats received by the lawyer Sánchez Arrieta were communicated on 30 May 1991. This document confirmed that she did not want the protection offered by the Government. According to reports from DAS agents, threats against the lawyer ceased when she gave up the cases she had taken on.

(c) Hernando Pinto Nocua: The information supplied by the Commander-in-Chief of the Armed Forces on 22 April 1991, reveals the following:

(i) On 3 February 1991 a meeting held at the El Carmen military base, Santander department, was attended by peasants from the region and human rights delegates and representatives of the newspaper Vanguardia Liberal. Pinto Nocua was among those present;

(ii) According to information obtained from a peasant attending the meeting, it was established that Pinto Nocua is the brother of the guerrilla fighter Argemiro Pinto Nocua (alias "Diomedes" or "el mocho"). To begin with he denied the relationship, but later, when his father intervened, he admitted the family connection;

(iii) At no time, according to the version of witnesses, were there any threats from military base personnel;

(iv) Hernando Pinto Nocua was summoned to the office of the Mayor of El Carmen Municipality by the Municipal Procurator to make a statement on what had transpired, but so far he has not appeared.

(d) Alvaro Marín Arango: His death is ascribed to SIJIN members of the department in question, but the information submitted by relatives and witnesses does not point to any one person as the possible perpetrator. The case has reached the stage of pre-trial proceedings;

(e) Alcides Castrillón: The the preliminary investigation into the homicide of Castrillón has been handled by Criminal Examining Court No. 100 of Bogotá, to which the Office of the Procurator Delegate for the Government Procurator's office appointed an examining lawyer to act as a special agent of the Government Procurator's Office in the criminal proceedings. The file is being processed;

(f) Alfonso Tique Timote: Itinerant Criminal Examining Court No. 8 of Ibagué is handling the criminal proceedings concerning the homicide of Tique Timote. The investigation, which was initiated by the Court on 5 March 1991, began with the formal removal of the body by the Superintendent of the Municipal Police of Coyaima, Tolima department. On 8 March, units of the Technical Corps of the Judicial Police, supported by the Investigations Division of the Corps, captured Jaime Morales Andrade and Jairo Azuero Bonilla, presumed to have been the actual perpetrators of - as well as the masterminds behind - the homicide, which had apparently taken place on account of a dispute over land located on the estate owned by the latter. After questioning the two suspects, the judge ordered them held in pre-trial

detention, but subsequently reversed his decision as regards Jairo Azuero Bonilla, since there was not sufficient evidence to keep him in detention. Further information on the progress of the investigation is awaited;

(g) Darío de Jesús Vega Rodríguez: This person, who was a member of the Executive Committee of the Workers' Trade Union of Antioquia department, lost his life in the course of events that occurred on 4 March 1991, when he was taking his son to school in the Belencito district in the city of Medellín. The official removal of the body was effected by the Criminal Examining Court of Medellín; two persons suspected of perpetrating the crime remained at the disposition of the Court. They made an unsworn statement on 7 March 1991 denying any involvement in the events. The investigation is continuing;

(h) José Domingo Leguizamo Cortés: The arbitrary detention and alleged disappearance of this farmer took place on 3 March 1991 when an alleged military patrol detained him in the afternoon in the village of Alto Morrocoy, in the municipality of La Macarena, Meta department. Proceedings had reached the preliminary investigation stage, and so far no one has been linked to the case;

(i) During a military action against alleged members of the Revolutionary Forces of Colombia (FARC) in the area of the River Pepitas Canyon, two alleged subversive elements, later identified as Gloria Elsa Rodríguez and Alfredo Eduardo Hull, were killed. A large quantity of administrative material and documents corroborating the information that had given rise to the operations was also captured;

(j) Rodrigo Elías Barrera, Camilo Palacios Romero, Antonio Palacios Urrea, Blanca Cecilia Gómez and Janeth Palacios: The Military Criminal Examining Court issued a pre-trial detention order that was enforced against Sub-Lieutenant Tómas Emilio Cruz Amaya, Sergeant William Ramírez Mora and Privates Arnulfo Aguilar Ayala, John Rivas Gómez, Oscar Gómez Ochoa, Alvaro Ayala Rodríguez, Florentino Camacho Barón and James Roa González. A special agent of the Office of the Attorney-General of the Nation has taken an active part in the criminal proceedings. As regards the disciplinary investigation, the Office of the Attorney-General of the Nation, through its Delegate for the Defence of Human Rights, brought charges against Sub-Lieutenant Cruz Amaya and Sergeant Ramírez Mora on the grounds that they had commanded the military patrol allegedly responsible for the events in which the above-mentioned persons lost their lives.

3. Additional information received by the Special Rapporteur

127. Several human rights organizations drew the attention of the Special Rapporteur to the continuing alarming trend of extrajudicial killings in Colombia. During the first six months of 1991, more than 1,100 people were said to have been killed. Reportedly, persons associated with trade unions, civic community movements and legal left-wing parties were the principal targets. The executions were allegedly perpetrated largely by members of the Armed Forces and the police and by more than 100 paramilitary groups and civilian "death squads", many of them reportedly operating under the command or with the support of the Colombian Security Forces.

128. The Special Rapporteur was further informed that those responsible for human rights abuses operated with impunity. Although in a number of cases investigations into alleged extrajudicial killings had been opened, it was reported that they had only exceptionally led to the identification and prosecution of the perpetrators.

129. The phenomenon of killings by hired assassins paid by drug traffickers also continued to be reported. This was said to occur particularly in highly militarized zones where traffickers allegedly counted on military acquiescence. After the formal surrender of weapons in March 1990 by the M. 19 Movimiento 19 de Abril, the principal remaining guerrilla forces, Fuerzas Armadas Revolucionarias de Colombia (FARC) and the Ejército de Liberación Nacional (ELN), reportedly maintained their campaigns of armed opposition. Peace negotiations in June/July and September 1991 were reportedly followed by renewed guerrilla offensives resulting in a considerable number of casualties among members of the army and the police as well as many civilian deaths. On the other hand, the local civilian population was reportedly often perceived by the armed forces as potential guerrilla collaborators. This was said to have entailed the killing of numerous civilians during counter-insurgency operations.

130. On 20 December 1991, information was received to the effect that on 16 December 1991, 20 indigenous inhabitants including six women and five children, from the Huellas reserve, Caloto municipality, Cauca department had been massacred. Their names were: Carolina Tombé, Ofelia Tombé, Joselia Tombé, Adán Mestizo, Mariana Mestizo, Feliciano Otela, Mario Tilcué, Calistro Chilhueso, Mario Ulcué, Julio Dagua, Domingo Calis, Floresmiro Dicué, María Conda, Etiberio Dicué Corpus, Maria Jesús Buetia, José Jairo Secué, Darío Coicué, Jesús Albeiro Peté, Edgar Mestizo and Severino Dicué.

131. In July 1991 the Regional Indigenous Council of Cauca (CRIC) had complained to the Office of the Regional Procurator and the Office of the Mayor of Caloto of cases of intimidation, threats and violent acts against the indigenous community of Caloto, but officials made no attempt to protect the community and prevent the massacre. On 7 December 1991, before the massacre, a group of heavily armed civilians, accompanied by the lawyer Gilberto Márquez, had set fire to the huts and destroyed the crops of the community. On the day of the massacre, the dwellings that the community was building, along with their household effects and domestic animals, were once again destroyed.

132. The indigenous community had been settled for over four years on the "El Nilo" estate of Caloto municipality with the agreement of its owner who recently sold the estate to persons who are said to be involved in drug trafficking and who are represented by the lawyer Mr. Márquez.

Cuba

1. Appeal for urgent action

133. On 4 October 1991, the Special Rapporteur sent a cable to the Government of Cuba concerning information that the lives and physical integrity of Eriberto del Toro Argote and Miriam Zaragoza Pérez were in danger. According

to the information, Mr. del Toro Argote, a human rights activist, had recently received telephone threats in the middle of the night and, according to the report, had been insulted and threatened with death because of his activities in connection with the Cuban Committee for Human Rights (CCPDH). It was also reported that Mrs. Zaragoza Pérez, a human rights activist belonging to the same group, had been similarly threatened. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the lives and physical integrity of Mr. Toro Argote and Mrs. Zaragoza Perez.

134. At the time this report was prepared, no reply had been received from the Government of Cuba.

2. Other cases transmitted by the Special Rapporteur

135. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Cuba transmitting information he had received concerning alleged summary or arbitrary executions. Between February and July 1991, at least ten people were said to have died in different prisons throughout the country, including Combinado del Este, Bayamo, El Guayabo and Guanajay: nine of them had allegedly died as a consequence of torture and ill-treatment by prison guards; in three cases, this reportedly took place in the context of mutinies in which the prisoners protested against the bad conditions under which they were being detained; one man was reported to have been shot dead after having tried to escape. A further case of death as a result of torture was said to have occurred in January 1990, when one man was allegedly killed by border guards (Tropas Guardafronteras) in Guantánamo.

136. In the same letter, the Special Rapporteur also transmitted to the Government of Cuba information he had received concerning the killings, allegedly perpetrated by members of the armed forces and the police, of eight persons. In particular, the Special Rapporteur was informed of the following incidents:

(a) In September 1990, a human rights activist was reportedly shot dead in Havana by a police officer who was later brought to trial. It was alleged, however, that the proceedings fell far short of the minimum international standards for a fair trial;

(b) In July 1991, a militant of the Communist Party and delegate of the "Poder Popular" Committee was allegedly shot at El Corajal by a soldier of the Cuban Army when he did not hear an order to stop while driving his tractor. He is said to have died three days later;

(c) In June 1991, a police officer reportedly killed a student in Holguin. It was alleged that the authorities did not react upon a denunciation of the case made by the victim's relatives, who were also denied a meeting with the Attorney General of the Ministry of the Interior;

(d) In the same town, five other men were killed between September 1990 and July 1991. One of them was reportedly killed by a soldier of the Special Brigade of the Army, three were said to have been shot dead by police agents, and a 17-year-old allegedly died as a consequence of brutal beating

administered by police officials. In several cases, those responsible could be identified, but reportedly no judicial action was taken against them by the authorities.

137. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Cuba to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Dominican Republic

1. Appeals for urgent action

138. During 1991, no appeals for urgent action were sent by the Special Rapporteur.

2. Other cases transmitted by the Special Rapporteur

139. On 8 November 1991, the Special Rapporteur sent a letter to the Government of the Dominican Republic transmitting the case of alleged death in custody, reportedly resulting from torture, of a Haitian national at a police station in Andrés Boca Chica in April 1991. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of the Dominican Republic to provide him with information on the above-mentioned case, and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Ecuador

1. Appeals for urgent action

140. On 9 October 1991, the Special Rapporteur sent a cable to the Government of Ecuador in connection with information received that the lives and physical integrity of the members of the Francisco Jácome cooperative of Guayaquil were in danger. According to the complaint, on 14 July 1991, 15 members of the Quinto Guayas battalion had entered the agricultural area belonging to this cooperative; a corporal called Guerrero had reportedly threatened the members of the cooperative and said that he would plant a bomb in their sown fields and leave another one hidden. Prior to these events, in January 1991, a half buried bomb had exploded in the fields and seriously injured the young Armando Mora, blinding him and mutilating his limbs; he has not received any compensation for these injuries. In this regard the Special Rapporteur referred to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, the principles set out in the Universal Declaration of Human Rights and article 6 of the International Covenant on Civil and Political Rights. The Special Rapporteur requested the Government to take all measures at its disposal to protect the lives and physical integrity of the persons referred to above. He also requested information on those measures and on the investigations carried out by the authorities in these cases.

Government reply

141. On 15 November 1991 a reply was received from the Government of Equador to the Special Rapporteur's cable of 9 October 1991 stating that it had been established that the leaders of the Francisco Jácome cooperative of Guayaquil had for the past two years been concocting a series of complaints of all kinds concerning the commanders and subordinate personnel of the Quinto Guayas battalion, accusing them of attempts on the lives of the members of the cooperative, of appropriating their land and other acts of a similar nature. It had been determined that the leaders of the cooperative used these complaints to bring pressure to bear on the National Army so as to get hold of land to which the army had title. It should also be mentioned that the cooperative had applied to the Court of Constitutional Guarantees, which was handling the charges against the Ministry of National Defence and members of the Quinto Guayas battalion. In the course of the proceedings, the Ministry of Defence had asked the Court of Constitutional Guarantees to appoint a commission to visit the area in question in order to ascertain whether or not the complaints were founded.

Egypt

1. Appeals for urgent action

142. During 1991, no appeals for urgent action were sent by the Special Rapporteur.

2. Other cases transmitted by the Special Rapporteur

143. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Egypt transmitting four cases of alleged summary or arbitrary executions. One case concerned death of a Christian prisoner as a result of torture allegedly administered by prison authorities because of his faith. According to reports received, in late February 1991, police allegedly killed one student and injured many while attacking students taking part in a peaceful demonstration at Cairo University. The Special Rapporteur received information concerning two prisoners of conscience and sympathizers of Islamic groups detained in Cairo between 19 February and 2 March 1991, by state security officers under state of emergency legislation; it was also reported that both prisoners had been subjected to persistent and savage torture. They had not been presented to any judicial body and allegedly received death threats by the State security intelligence.

144. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Egypt to provide him with information on the above-mentioned cases, and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

El Salvador

1. Appeals for urgent action

145. On 14 May 1991, the Special Rapporteur sent a cable to the Government of El Salvador stating that death threats had reportedly been received by members of the leadership of the Comité de Familiares Pro-Libertad de Presos y Desaparecidos Políticos de El Salvador 'Marianella García Villas' (CODEFAM), Armando Salazar, Chairman, Guadalupe Mejía, Vice-Chairman, Fidelina Alvarenga, Margarita Alemán, Cristina Cardoza and Mauricio Martínez. According to the information received, on Sunday 12 May 1991, members of the Committee who were in the office received an anonymous telephone call from a man who identified himself as "Angel of Death": he mentioned the names of the six members of the leadership and said: "We know where you are". It was also reported that four members of the leadership had previously been detained: Mrs. Alvarenga, in January 1989; Mr. Martínez, in January and July 1989; Mrs. Alemán, in April 1989; Mr. Salazar was missing for some time a number of years ago. Against this background, and in view of the seriousness of the message, they fear for their lives and safety.

146. In connection with the above, the Special Rapporteur wished to point out that governments had a responsibility to prohibit by law all extra-legal, summary or arbitrary executions, and to ensure that such executions do not take place. It was also the responsibility of governments to guarantee effective protection through judicial or other means to any individual who may be a victim of such an execution, including those who have received death threats. He referred to paragraph 4 of the Principles on the effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, to the principles embodied in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons and requested information on those measures as well as on the investigation carried out by the authorities in those cases.

147. On 24 July 1991 the Special Rapporteur sent a cable to the Government of El Salvador concerning information that on 15 July 1991 the Lutheran Bishop of El Salvador, Medardo Gomez, who is also President of the International Association Against Torture (IAAT), a non-governmental organization in consultative status with the Economic and Social Council, had allegedly received death threats from a body calling itself the Anti-communist Front of El Salvador (FAS), which reportedly warned him that it would unleash a bloody civil war against those who were trying to achieve the success of the peace negotiations being conducted in El Salvador. The Special Rapporteur referred to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, the Principles contained in the Universal Declaration of Human Rights and article 6 of the International Covenant on Civil and Political Rights. The Special Rapporteur requested the Government to take all measures at its disposal to protect the lives and physical integrity of the persons mentioned above. He also requested information on those measures and on the investigations carried out by the authorities in these cases.

148. On 31 July 1991, the Special Rapporteur sent a cable to the Government of El Salvador in connection with information that members of the "Norma Virginia Guirola de Herrera" Institute for Women's Research, Training and Development (IMU) and the National Revolutionary Movement (MNR) had allegedly been subjected to harassment and death threats. According to the information communicated, the offices of IMU had been kept under permanent surveillance since the beginning of June 1991 by men in civilian clothes, and a person employed by the Institute had been followed by two vehicles. Two threatening telephone calls had allegedly been received by the office; in one of them, Nora García, the director of IMU, had reportedly been warned to leave her job within 25 days or be executed; the calls had been made by a group calling itself Condor.

149. According to another complaint, René Flores, a deputy of the Legislative Assembly for a Democratic Grouping and Secretary-General of the National Revolutionary Movement (MNR) reportedly received anonymous letters in a Treasury Police envelope, threatening him and all his family with death, after he had criticized the present Government on a television programme. Other MNR leaders have allegedly received death threats by telephone from a person who calls himself the "Angel of Death".

150. In the cases described above, the complaints indicated that the threats came from death squads whose members were connected with military groups. The Special Rapporteur referred to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, according to which "Effective protection through judicial or other means shall be guaranteed to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats", and the principles contained in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which provide, in articles 3 and 6 respectively, that everyone has the right to life and security of person, that this right shall be protected by law and that no one shall be arbitrarily deprived of his life. The Special Rapporteur requested the Government to take all measures at its disposal to protect the lives and physical integrity of the persons mentioned above. He also requested information on those measures and the investigations carried out by the authorities in these cases.

151. On 31 July 1991, the Special Rapporteur sent a cable to the Government of El Salvador concerning information that United Nations staff members as well as some groups and individuals who had cooperated with the United Nations or with representatives of its human rights bodies, or who had taken advantage of procedures introduced for the protection of human rights and fundamental freedoms, had received death threats. In May 1991, members of the Committee of Relatives for the Freedom of Political Prisoners and Disappeared of El Salvador (CODEFAM) had received death threats from a person who identified himself as the "Angel of Death", and who is believed to be connected with the death squads which apparently operate with the acquiescence of the armed forces (see para. 145).

152. Early in June, all Salvadorian tradesmen who provided services to international organizations active in El Salvador, including the United Nations, the International Committee of the Red Cross and

non-governmental organizations, such as the French Médecins sans Frontières, had received threats of reprisals in the form of printed material signed by a so-called Anti-communist Salvadorian Front (FAS) if they did not cease collaborating with organizations having communist connections that were attempting to take power in the country. In July 1991, FAS had also threatened the staff of the United Nations Observer Mission in El Salvador (ONUSAL). According to the report, FAS is also a group which, it is believed, operates with the acquiescence of the armed forces against persons or organizations whose activities are considered by certain authorities as encouraging a policy of armed opposition.

153. In this connection the Special Rapporteur referred to paragraph 4 of the principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, and to the principles contained in article 3 of the Universal Declaration of Human Rights and article 6 of the International Covenant on Civil and Political Rights. Furthermore, in view of the fact that the persons in question belonged to the United Nations or to organizations which collaborate regularly in United Nations procedures for the protection of human rights, the Special Rapporteur referred to resolution 1991/70, adopted by the Commission on Human Rights on 6 March 1991, in which the Commission urged Governments "to refrain from all acts of intimidation or reprisal, in any form, against private individuals and groups who seek to cooperate with the United Nations and representatives of its human rights bodies, or who have sought to avail themselves of the procedures established under United Nations auspices for the protection of human rights and fundamental freedoms".

154. In the circumstances, the Special Rapporteur appealed to the Government to take all measures at its disposal to protect the lives and physical integrity of the persons mentioned above. He also requested information on those measures as well as on the investigations carried out by the authorities in these cases.

155. On 14 October 1991, the Special Rapporteur sent a cable to the Government of El Salvador concerning information that Mirtala López and other human rights activists had been harassed and had received threats against their lives and physical integrity. According to the information, Mrs. López, a member of the Christian Committee for the Displaced of El Salvador (CRIPDES), had allegedly received a number of death threats; Mrs. López also played an active part in the Standing Committee for National Debate (CPDN), a coalition of community and church organizations which had, in recent weeks, allegedly been accused on numerous occasions by the Ministry of Defence of being a cover for the Farabundo Marti National Liberation Front (FMLN). Mrs. López had already been arrested in April 1989 following a raid by the police on the CRIPDES offices. According to her statement, she and seven other CRIPDES workers had been tortured while they were in the hands of the police and subsequently released without charges.

156. According to the information, the commander of a local military brigade of Chalatenango had threatened to arrest her on 3 September 1991 during a visit by CRIPDES workers to the repopulated communities in the area. On 7 September, she was followed through the streets of San Salvador by a vehicle with tinted windows. It was also stated that on 12 September 1991 a letter

from the self-styled Anti-communist Salvadorian Front (FAS) arrived at the offices of CRIPDES addressed to "Terrorist leader Mirtala López, cover organization CRIPDES". The letter included the following:

> "Just as we eliminated the UCA Jesuits, we are firmly resolved to put an end to the lives of those who say they are the leaders of the Machiavellian FMLN-FDR organizations... Your youth is in great danger. Your end is nigh." (The underlining is in the original.)

Less than a week later, on 18 September 1991, Mrs. López maintains that she received a second letter from FAS, addressed to the terrorist Mirtala López, which read, inter alia:

> "We are going to behead the terrorist leaders ... The time for justice is at hand. Your youth ends today." (The underlining is in the original.)

157. The Special Rapporteur, referring to his communication of 13 July 1991, had already said that, according to reports, FAS had allegedly distributed pamphlets threatening members of opposition groups and that various popular organizations maintained that their staff had received death threats by telephone. According to the information, some of those who received threats of this type had been executed extra-legally. The Special Rapporteur referred to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, and to the principles contained in article 3 of the Universal Declaration of Human Rights and article 6 of the International Covenant on Civil and Political Rights. Since the persons mentioned collaborated regularly in United Nations procedures for the protection of human rights, the Special Rapporteur also referred to resolution 1991/70, adopted by the Commission on Human Rights on 6 March 1991.

158. The Special Rapporteur requested the Government to take all measures at its disposal to protect the lives and physical integrity of the persons mentioned above. He also requested information on those measures and on the investigations carried out by the authorities in these cases.

Government replies

159. On 16 January 1991, a communication was received from the Government of El Salvador transmitting a communiqué issued by the Foreign Minister denouncing the murder of two United States military personnel, private Ernest Dawson and Lt. Col. David Pickett, after their helicopter had been shot down over Lolotique in San Miguel Department on 2 January 1991.

160. On 29 January 1991, a communication was received from the Government of El Salvador transmitting a communiqué issued by the Armed Forces denouncing the massacre of 15 members of the Aragón family by the FMLN in Ayutuxtepeque on 21 January 1991.

161. On 14 February 1991, another communication was received from the Government of El Salvador transmitting a statement made by the Minister of Defence and Public Security of El Salvador concerning the murder of Vilma Chavez, a teacher from La Libertad in Colon Department, on 22 October 1991.

162. On 19 February 1991, another communication was received from the Government of El Salvador transmitting a press release by the Armed Forces of El Salvador denouncing the murder of Mr. José Valeriano Ramírez by the FMLN in Cacaopera, Morazán Department, on 9 December 1990. The mother of the deceased did not wish any investigation to be carried out and no further information in the crime could be elucidated.

163. On 27 May 1991, another communication was received from the Government of El Salvador transmitting a note from the Armed Forces of El Salvador emphatically denouncing a campaign of threats made by the FMLN against mayors and judges mostly in the Department of Usulután who had been elected by the Salvadorian people.

164. On 24 June 1991, another communication was received from the Government of El Salvador transmitting a communiqué issued by the Armed Forces denouncing the murder of Carlos Lopez Aviles, an army captain, by the FMLN in San Salvador on 17 June 1991.

165. On 8 August 1991, another communication was received from the Government of El Salvador transmitting a communiqué issued by the Armed Forces denouncing the murder of Isaac Martínez García, a member of parliament from Santa Ana Department who belonged to the Convergencia Democrática Party, on 13 May 1991. Subsequent investigation had led to the capture of those responsible, namely, common criminals and, thus, any suspicion against the army was unfounded.

166. On 6 December 1991, another communication was received from the Government of El Salvador transmitting information concerning the death of Isaac Martínez García, a member of parliament who belonged to the Convergencia Democrática Party. The Human Rights Commission of El Salvador (CDHES) stated that Antonia Villatoro and José Alpedo Alarcón, the wife and stepson of the deceased had confessed to his murder.

2. Other cases transmitted by the Special Rapporteur

167. On 8 November 1991, the Special Rapporteur sent a letter to the Government of El Salvador transmitting allegations of summary or arbitrary executions and death threats. Over 100 cases of killings, allegedly attributable, directly or indirectly, to the Government Security Forces, were reported to have occurred between February 1990 and June 1991, 60 of them during the first six months of 1991. Forty-five killings were said to have been carried out by paramilitary groups, death squads allegedly linked to, or acting with the aquiescence of, the military and the police, and by civil defence groups organized and directed by the Army which also provides them with arms.

168. One of the victims, reportedly killed, together with his wife, by a death squad on 21 February 1991, had been a candidate of the Unión Democrática Nacional (UDN, National Democratic Union), for the elections of 10 March 1991 in the municipality of Ciudad Delgado. Also killed in another incident allegedly related to these elections on 11 February 1991, was a 19-year-old member of the opposition Convergencia Democrática (CD), Democratic Convergence party, nephew of a CD candidate for local elections in Metapán. Among the

victims of the other reported incidents, there were a large number of peasants, trade unionists, students and members of the FMLN, who were allegedly unarmed at the time of their execution.

169. Twelve cases of intimidation through death threats were reported to the Special Rapporteur; all of them were said to have occurred during the first half of 1991: in three of these cases, the death threats, allegedly issued by members of the army and related groups, were directed against candidates for the elections and a judge who was investigating allegations of forced recruitments into Civil Defence Forces. On 12 May 1991, seven leading members of the CODEFAM reportedly received death threats.

170. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of El Salvador to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

3. Additional information received by the Special Rapporteur

171. The Special Rapporteur was informed that the human rights situation in El Salvador continues to be precarious despite the agreement signed by representatives of the Government and of the Frente Farabundo Martí para la Liberación Nacional (FMLN), in San José, Costa Rica, in July 1990. After some signs of attenuation of the armed conflict in El Salvador during the second half of 1990, a large-scale guerrilla offensive was reported to have been launched in late 1990, which led to an increase of casualties of combatants of both sides and, in particular, of civilians affected by indiscriminate attacks by both the armed forces and the FMLN.

172. The Special Rapporteur was further informed that death squad killings, whose number had declined during the last six months of 1990 in the same way as killings attributed to the armed and security forces, began to rise again in early 1991. An upsurge of political violence and killings was reported prior to the legislative and municipal elections of 10 March 1991.

173. The Special Rapporteur had also received information about a wave of death threats against members of popular organizations, political groups and foreign workers during the months of May and June 1991. In particular, it was alleged that death threats were issued against persons in respect of their possible future cooperation and contacts with the United Nations Observer Mission in El Salvador (ONUSAL). Other groups whose members were said to have been subjected to threats and intimidation are: the Christian Committee for the Displaced of El Salvador (CRIPDES), the Committee of Relatives for the Freedom of Political Prisoners and Disappeared of El Salvador (CODEFAM) and the non-governmental Human Rights Commission of El Salvador (CDHES).

174. The Special Rapporteur received further information that members of the official security forces, in particular the military, were responsible for a large number of human rights violations. It was also alleged that executions and death threats were not only carried out openly by government security forces, but could often be attributed to paramilitary groups and "death squads" linked to, or operating with, the aquiescence of the military.

According to reports, numerous human rights violations continued to be perpetrated by the FMLN and other groups, in particular the Salvadorean Anticommunist Front (FAS). The Special Rapporteur noted that the judicial system in El Salvador continued to be incapable of providing justice, allegedly even in those major human rights cases that had received international attention. In particular, the Salvadorean Armed Forces were said to enjoy impunity. However, the recent conviction of a colonel and a lieutenant held responsible for the murder of six Jesuit priests in November 1989 was an exception, although it appeared necessary that judicial investigations continue in order to bring to justice all those who might have participated in that crime.

Ethiopia

1. Appeals for urgent action

175. On 14 May 1991, the Special Rapporteur sent a cable to the Government of Ethiopia concerning the detention of persons in danger of reprisals in connection with the situation of ongoing violence involving government forces and the Eritrean People's Liberation Front (EPLF) and the Ethiopian People's Revolutionary Democratic Front (EPRDF). According to information received, a large number of civilians had been detained without charge by the Government on suspicion of sympathizing with the rebels. Fear had been expressed that these detainees would be subject to summary execution in the event of rebel forces making further advances in their campaign. A number of executions had allegedly already occurred in this context, in part in response to human rights abuses perpetrated by EPLF and EPRDF. Such abuses were said to have included the assassination of alleged collaborators with government security forces and the detention of captured government officials.

176. In this connection, the Special Rapporteur emphasized the fundamental principles set forth in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights which, in articles 3 and 6 respectively, provide that every individual has the right to life and security of the person, that this right shall be protected by law and that no one shall be arbitrarily deprived of his or her life.

177. At the time of preparation of the present report, no reply had been received from the Government of Ethiopia.

2. Other cases transmitted by the Special Rapporteur

178. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Ethiopia transmitting information he had received concerning the death of 18 people in January 1991, allegedly killed by government agents for being suspected of sympathizing with the armed opposition group, EPLF. These executions reportedly took place in the broader context of a campaign directed against all those alleged to support this separatist movement. In the same letter, the Special Rapporteur communicated to the Government of Ethiopia information regarding an incident in which eight people were killed during a demonstration against the new Government, reportedly by members of EPRDF, a group that had taken power in May 1991.

179. The Special Rapporteur also transmitted further allegations, concerning the alleged extrajudicial execution in Addis Ababa, at the end of May 1991, of a former official of the overthrown government by members of EPRDF, in power since May 1991. The Special Rapporteur was also informed that 40 inmates of Alatu prison, 20 kms north-east of Addis Ababa, had reportedly been extrajudicially executed in April 1990.

180. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Ethiopia to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities. In addition, he recalled those minimum humanitarian standards which were applicable in all situations, including situations of internal violence, disturbance and tension and which could not be derogated from under any circumstances, that every child had the right to the measures of protection required by his or her condition as a minor and that all efforts be made not to allow persons below the age of 18 to take part in acts of violence. The Special Rapporteur appealed to the Government to provide him with information concerning any measures undertaken to safeguard, to the greatest extent possible, the lives and physical integrity of those persons affected by the above-mentioned violence.

Greece

1. Appeals for urgent action

181. During 1991, no appeals for urgent action were sent by the Special Rapporteur.

2. Other cases transmitted by the Special Rapporteur

182. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Greece transmitting information received, according to which a Turkish citizen had died on 29 January 1991 at Flat hospital, allegedly after having been tortured at Athens Police Headquarters. The victim had reportedly been arrested on 21 January 1991 by agents of the Narcotics Branch of the Athens police.

183. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Greece to provide him with information on the above-mentioned case and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Government reply

184. On 3 December 1991, a reply was received from the Government of Greece to the Special Rapporteur's letter of 8 November 1991 stating that the cases concerning Yalcin Halit and Suleiman Akyar appeared to be connected, as both were drug traffickers who knew each other and worked in association. With reference to Yalcin Halit, no ill-treatment whatsoever was ever reported to the police; during interrogation under oath, on 5 February 1991, he never complained of having being tortured. With reference to Suleiman Akyar, who had been arrested by the Narcotics Branch of Western Attica for drug

trafficking, he suddenly fell ill while in custody on 21 January 1991 and lost consciousness; he was taken to hospital in Kifissia where he died on 29 January 1991. The coroners, established that his death had occurred as a result of pneumonia.

Grenada

1. Appeals for urgent action

185. On 29 July 1991, the Special Rapporteur sent a cable to the Government of Grenada concerning the imminent execution of the following persons: Callistus Bernard, Dave Bartholomew, Christopher Stroude, Bernard Coard, Leon Cornwall, Colville McBarnette, Phyllis Coard, John Ventour, Lester Redhead, Hudson Austin, Liam James, Ewart Layne, Selwyn Strachan and Cecil Prime. According to information received, on 19 October 1983, Prime Minister Maurice Bishop and others, including government ministers and trade union leaders, were killed by members of the armed forces during a coup allegedly organized by a left-wing faction of the New Jewel Movement (NJM). The People's Revolutionary Government (PRG) was dissolved and the Revolutionary Military Council briefly assumed control. It was overthrown after troops from the United States, assisted by forces from other Caribbean countries, invaded Grenada on 25 October 1983. Those suspected of involvement in the killings were eventually charged with murder and brought to trial.

186. According to information received, international standards for fair trial were allegedly not met at all of the critical phases: in the pretrial period and during the proceedings themselves, the defendants were denied the right to appeal to a higher tribunal. It was also alleged that those suspected of being involved in the killings were detained for several months without charge and that some of the accused had signed confessions obtained as a result of ill-treatment during interrogation by the police. The conditions of incarceration of those involved in the case may have failed to meet minimum international standards. The defendants were denied adequate legal assistance both before and after they were charged. In addition, the jury may not have been wholly impartial towards the defendants, as evidenced by the fact that certain members of the jury cheered when the judge informed the defence lawyers that they were liable to be cited for contempt of court during preliminary proceedings.

187. In this connection, the Special Rapporteur reminded the Government of the fundamental principles embodied in the Universal Declaration of Human Rights and reiterated in the International Covenant on Civil and Political Rights and in the Declaration and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. He also referred to the Safeguards guaranteeing the protection of the rights of those facing the death penalty, approved by the Economic and Social Council in its resolution of 25 May 1984, as well as to Council resolution 1989/64 of 24 May 1989, in which the Council approved the implementation of those Safeguards. The Special Rapporteur requested information in connection with measures taken by the competent authorities to ensure that the right to life of the above-listed persons was respected.

188. At the time of preparation of the present report, no reply had been received from the Government of Grenada.

Guatemala

1. Appeals for urgent action

189. On 21 February 1991, the Special Rapporteur sent a cable to the Government of Guatemala concerning Mario Salazar and Julio Lopez, two educators who work for Casa Alianza (Covenant House), an organization that looks after street children in Guatemala, and who were allegedly threatened with firearms by police in plain clothes. According to the report, on 26 January 1991, at about 11 a.m., both educators were helping a group of children in Guatemala City when they were approached by two individuals in civilian clothes who pointed their weapons at the heads of Mr. Lopez and of the boy José Luis Gonzalez, and took the two educators to the national police headquarters, where the children saw them enter. According to Mr. Salazar and Mr. Lopez, both were interrogated and verbally insulted by members of the police, who, after accusing them of creating problems, tried to make them sign a statement claiming that their detention had been an error. In connection with this occurrence, the victims apparently made a report complaining of abuse of authority and abduction in which they expressed concern at this incident, especially as there had previously been other serious occurrences affecting members of their organization, such as the abduction and death of Rene Geovanny Soto García in October 1989, and the recent death threats addressed to the Director of Casa Alianza, Bruce Harris.

190. In this connection, the Special Rapporteur appealed to the Government to take all necessary steps for the investigation and elucidation of the threats to the persons mentioned and for the protection of the right to life of the members of Casa Alianza and of other educators of homeless children, as also of the children themselves, a particularly vulnerable group requiring greater protection. He also requested information regarding the outcome of the investigations and the protective measures taken.

191. On 15 March 1991, a cable was sent to the Government of Guatemala concerning six peasants residing in the Canton of Chunima, Chichicastenango, El Quiché, who had been threatened with death by civilian patrollers attached to the army who, apparently, were also controlling the access routes to the locality. It appeared that, in February, two patrollers executed two peasants and left a third wounded in the Canton of Chupol, El Quiché. The names of the persons threatened were said to be: Diego Perebal, Sebastian Perebal Suy, Sebastian Suy Coc, Tomas Perez Suy, José Velazquez Morales and Sebastian Morales.

192. In this connection, the Special Rapporteur, referring to the fundamental principle set forth in article 6 of the International Covenant on Civil and Political Rights, that every human being has the inherent right to life and that that right is to be protected by law, appealed to the Government to make every effort to protect the above-mentioned persons and requested information on the measures taken by the Government in this regard.

193. On 1 May 1991, the Special Rapporteur sent another cable to the Government of Guatemala, concerning death threats directed against the following persons:

(a) Alejandro Vázquez Cua. On 14 April 1991, Mr. Vázquez had allegedly been threatened with death in the village of Xepac, Tecpan, Chimaltenango by an army officer who, in the presence of a group of 45 soldiers, forced him to come out of his house and kneel down in front of him or to suffer the consquences; Mr Vázquez's family was accused by the soldiers of collaborating with the guerrillas;

(b) Simón Lopez Escriba. On 4 April 1991 he was reportedly severely beaten and threatened with death by an army specialist, Luis Alfredo Godoy Lerona, of the Presidential staff, when walking in the street in Quezada, Jutiapa;

(c) Byron Morales. On 12 April 1991, in Guatemala City, Mr. Morales, General Secretary of the Trade Union of Guatemalan Workers (UNSITRAGUA), allegedly received death threats by telephone from persons suspected of belonging to government security forces.

194. In this connection, the Special Rapporteur referred to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council in resolution 1989/65 of 24 May 1989, to the principles embodied in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons. In addition, he requested information on those measures, as well as on the investigations carried out by the authorities in these cases.

195. On 10 May 1991, another cable was sent to the Government of Guatemala concerning Mr. Amilcar Méndez Urizar, leader of the "Runujel Junam" Ethnic Communities Council (CERJ) who allegedly received death threats on 15 April 1991, at Calzada Roosevelt, Zona 11, Guatemala City, from four armed men who were suspected of belonging to government forces; they tried to detain him, but he managed to escape when several local residents intervened. This act is particularly disturbing because another member of the same organization, Camilo Ajqui Jimón, 26 years of age, is said to have been murdered on 14 April 1991 in Potrero Viejo, Zacualpa, El Quiché, by agents suspected of belonging to the security forces. Mr. Ajqui Jimón was reportedly pressing for an investigation into the recent disappearance of four other members of the organization.

196. In this connection, the Special Rapporteur referred to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, to the principles embodied in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. Furthermore, considering that the above-mentioned persons belonged to an organization which regularly cooperates with the United Nations in the protection of human rights, the Special Rapporteur referred to Commission on Human Rights resolution 1991/70 of 6 March 1991. In which, the Commission urged governments to refrain from all acts of intimidation or reprisal against private individuals and groups who seek to cooperate with the United Nations and representatives of its human rights bodies. The Special Rapporteur appealed to the Government to take all

measures at its disposal to protect the life and physical integrity of the above-mentioned persons and in addition requested information on these measures as well as on the investigation carried out by the authorities in these cases. The Special Rapporteur also appealed to the Government to take the necessary steps to protect the life of Mr. Méndez Urizar and requested information on these measures and on the investigations conducted by the authorities in this case.

197. On 13 May 1991, another urgent message was sent to the Government of Guatemala concerning Axel Mejía, a teacher at Casa Alianza in Guatemala City, who had allegedly received death threats on 28 and 30 April 1991, when he was warned in anonymous telephone calls to stop working in that organization. Futhermore, the telephone number of Casa Alianza, to which some of these calls were made, had recently been changed and had not yet been made public; therefore, it could only have been known by someone with direct access to the telecommunications network. In addition, Axel Mejía had recently testified in the trial of a member of the Treasury Police charged with belonging to a group of SIPROCI agents who had killed three street children on 7 November 1990.

198. On 3 June 1991, the Special Rapporteur sent a cable concerning Miguel Sucuqui Mejía and his family who had allegedly been threatened with death by members of the Civilian Defence Patrols (PAC), on the night of 6 May 1991 in the village of Sacpulup, Chichicastenango, El Quiché. According to the information, approximately at midnight on 6 May 1991, members of the PAC of Sacpulup surrounded the house of Mr. Secuqui Mejía, a member of the Council of Ethnic Communities "We are all Equal" (CERJ). The patrol leader entered the house asking for Mr. Sucuqui Mejía; when he learned that he was not there, he threatened to kill his wife. Mr. Secuqui Mejía later stated that the patrol leader threatened all of the family and said that sooner or later he would take revenge on my family for everything that had occurred and especially if we denounced what had just happened. As a result of this incident, Mr. Sucuqui Mejía and his family had sought refuge at the CERJ offices. Since its foundation, CERJ has been the target of a wide range of human rights violations: since March 1990, at least eight of its members had been killed under circumstances which suggest official involvement, in addition, since January 1991, three relatives of CERJ members had been killed, and many more members have been intimidated and threatened by members of the security forces or those working under their command.

199. In connection with the above, the Special Rapporteur drew the attention of the Government to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, to the principles embodied in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. In addition, considering that the Consejo de Comunidades Etnicas "Runujel Junam" had cooperated with the United Nations Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur recalled Commission on Human Rights resolution 1991/70 which urged Governments to refrain from all acts of intimidation or reprisal against private individuals and groups who seek to cooperate with the United Nations and representatives of its human rights bodies. The Special Rapporteur requested information regarding measures taken to protect the life and physical integrity of the

above-mentioned persons, as well as an assurance that the provisions of Commission on Human Rights resolution 1991/70 were being respected.

200. On 17 June 1991, the Special Rapporteur sent another urgent message to the Government of Guatemala concerning further threats against the life of Amilcar Méndez Urizar, as well as threats against members of his family; these incidents followed the attempted abduction of Mr. Méndez Urizar on 15 April 1991 (see para. 195 above).

201. According to the information, at 8.00 p.m. on 16 May 1991, Mr. Méndez Urizar received an anonymous telephone threat at his home. The caller stated that Mr. Méndez would not escape, nor would his wife or children. Since its foundation, the "Runujel Junam" Ethnic Communities Council (CERJ) had been the target of a wide range of human rights violations: since March 1990, at least eight members were known to have been killed in circumstances which reportedly suggested official involvement; since January 1991, three members of CERJ and three relatives of CERJ members had been killed. In addition, many more members of CERJ had been intimidated and threatened by members of the security forces or those working under their command. The most recent killing of a CERJ member, that of Camilo Ajqui Jimon, in Potrero Viejo, Zacualpa, El Quiché, was on 14 April 1991.

202. In this connection, the Special Rapporteur once again drew the attention of the Government to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, and to the principles embodied in article 3 of the Universal Declaration of Human Rights and in article 6 of the International Covenant on Civil and Political Rights. In addition, considering that CERJ was cooperating on a regular basis with the United Nations Working Group on Enforced or Involuntary Disappearances, he recalled Commission on Human Rights resolution 1991/70 (see para. 199 above). The Special Rapporteur requested information regarding measures taken to protect the lives and physical integrity of the above-mentioned persons, as well as an assurance that the provisions of Commission on Human Rights resolution 1991/70 were being respected.

203. On 25 July 1991, the Special Rapporteur sent a further cable to the Government of Guatemala concerning Rosendo de León Dubón and Mauricio Raxcacó Henriquez, workers employed by the National Printing House and members of the Union of Printing Workers, affiliated with the National Federation of Workers' Trade Unions of Guatemala (FENASTEG), who had allegedly been receiving death threats from members of the security forces believed to be linked to death squads since April 1991, when they had reported several cases of official corruption in the printing works of the Ministry of the Interior. According to the information received, on 6 June 1991, Mr. Raxcacó was followed and beaten by two individuals when he was returning to his home in Zona 1 of Guatemala City; these persons warned him that he should stop making accusations. Throughout the year various reports were received alleging a recent increase in telephoned threats, abductions and summary executions to which trade union members, trade unions and members of popular movements are subject and in which members of the security forces or groups connected to them were reportedly involved.

204. In this connection, the Special Rapporteur referred to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, and to the principles embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights which in articles 3 and 6 respectively, states that every individual has the right to life and security of the person, that this right shall be protected by law and that no one shall be arbitrarily deprived of his or her life. In addition, the Special Rapporteur appealed to the Government of Guatemala to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons, and requested information on those measures as well as on the investigations carried out by the authorities in these cases.

205. On 26 July 1991, the Special Rapporteur sent another cable to the Government of Guatemala concerning various staff members of Casa Alianza and, in particular, Bruce Harris, its Director, who had allegedly been threatened with death by members of the security forces. On two occasions, namely, on 12 July 1991 and 18 July 1991, according to eyewitness reports, four persons in a blue four-door BMW car with tinted windows drove at high speed towards Casa Alianza at a time when death threats were reportedly being made against its Director, staff and the children living there.

206. It was reported that the recently established legal service of Casa Alianza had pressed for the investigation of violations of the rights of children, allegedly committed by members of the police, in some cases in uniform and in others in plain clothes. At the time of writing, 39 allegations against 50 members of the National Police were awaiting investigation by the courts. Some street children and Casa Alianza workers who had testified have, it is said, constantly been threatened with death and other reprisals. Mr. Axel Mejia, key witness in proceedings brought against 18 members of the Guatemala City security forces for the mistreatment of three street children in November 1991, has reportedly felt obliged to leave the country owing to the threats he has received.

207. In this connection, the Special Rapporteur referred to paragraph 4 of the Principles of Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, and to the principles embodied in article 3 of the Universal Declaration of Human Rights and article 6 of the International Covenant on Civil and Political Rights. Furthermore, in view of the fact that the persons mentioned cooperated regularly in the procedures established by the United Nations to protect human rights, the Special Rapporteur also referred to resolution 1991/70, adopted by the Commission on Human Rights on 6 March 1991. In that resolution, the Commission urged Governments "to refrain from all acts of intimidation or reprisal, in any form, against private individuals and groups who seek to cooperate with the United Nations and representatives of its human rights bodies, or who have sought to avail themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms". The Special Rapporteur appealed to the Government of Guatemala to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons. In addition, he requested information on those measures as well as on the investigations carried out by the authorities in these cases.

208. On 30 July 1991, the Special Rapporteur sent another cable to the Government of Guatemala concerning Hugo Arce, a journalist working for the Guatemalan newspaper Siglo XXI who had allegedly received death threats by telephone on several occasions since he had begun writing articles criticizing the Government. On 4 July 1991, two men reportedly stopped him in the street and threatened him with the same fate as Humberto Gonzales Gamarra (a journalist murdered in October 1990) if he did not stop criticizing the Government; the next day it is said he was followed by a car; on 12 July, while travelling with his family in his own car, he was allegedly threatened with a firearm from another vehicle that drew abreast of his. Mr. Arce was accused by the police at the beginning of 1991 of possessing cocaine and explosives in his car, an allegation that was never proved. The person reporting this has suggested that this allegation is also a form of persecution against the journalist, just like recent death threats.

209. In this connection, the Special Rapporteur referred to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, and to the principles embodied in article 3 of the Universal Declaration of Human Rights and in article 6 of the International Covenant on Civil and Political Rights. In addition, he appealed to the Government of Guatemala to take all measures at its disposal to protect the life and physical integrity of the above-mentioned person and furthermore requested information on those measures as well as on the investigations carried out by the authorities in this case.

210. On 30 July 1991, the Special Rapporteur sent another cable to the Government of Guatemala concerning Carmen Reina and Otto Peralta, leaders of the Association of University Students at the University of San Carlos (AEU), who, as members of non-governmental organizations, had attended the previous session of the United Nations Commission on Human Rights, held in Geneva in February and March 1991; they had been threatened with death by unknown persons suspected of belonging to Government forces, according to the complaint they made to the Minister of the Interior during a meeting with him on 13 June 1991. Other AEU members have allegedly experienced harassment and surveillance as well as death threats; this is particularly worrying since the AEU has, it is said, been harassed for a number of years: it is alleged that 12 of its leaders have disappeared since August - September 1989 and a further 7 executed extra-judicially in the same period.

211. On 12 August 1991, the Special Rapporteur sent another cable to the Government of Guatemala concerning José Miguel Mérida Escobar, 36 years old, head of the homicide section of the Criminal Investigation Department of the National Police, who was assassinated on 5 August 1991 in Zona 1 of Guatemala City. Those providing this information state that the assassination is connected with the investigation Mr. Mérida was carrying out into the murder the previous year of the anthropologist Myrna Mack Chang, who had cooperated with United Nations bodies. According to the information, Mr. Mérida had written a report in which she stated that the motive for the crime was political and had testified before the courts proving the complicity and participation of senior military leaders; in addition, Mr. Mérida was planning to testify before the Inter-American Commission on Human Rights.

In view of the foregoing, concern has been expressed for the security of the family and colleagues of Ms. Mack and also for the other members of the National Police who took part in the investigation.

212. In connection with these two cases, the Special Rapporteur referred to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council in resolution 1989/65 of 24 May 1989, which states that "effective protection through judicial or other means shall be guaranteed to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats", and to the principles embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights which state in articles 3 and 6 respectively that every individual has the right to life and security of the person, that this right shall be protected by law and that no one shall be arbitrarily deprived of his or her life. In addition, in view of the fact that the above-mentioned persons cooperated regularly in the procedures established by the United Nations to protect human rights, the Special Rapporteur also referred to resolution 1991/70, adopted by the Commission on Human Rights on 6 March 1991. In that resolution, the Commission urged Governments "to refrain from all acts of intimidation or reprisal, in any form, against private individuals and groups who seek to cooperate with the United Nations and representatives of its human rights bodies, or who have sought to avail themselves of procedures established under the United Nations auspices for the protection of human rights and fundamental freedoms". Furthermore, he appealed to the Government of Guatemala to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons; in addition he requested information on those measures as well as on the investigations carried out by the authorities in these cases.

213. On 12 August 1991, the Special Rapporteur sent another cable to the Government of Guatemala concerning threats to the life and physical integrity of Carlos Hernández, 16 years old, and "Caballo", 15 years old, as well as the discovery in Guatemala City of the severely mutilated body of a street child (whose name and particulars remain unknown) of 7 or 8 years of age. According to the information, on 9 August 1991, Carlos Hernández and "Caballo" were sitting under the Amate bridge which is on 19th Street between 4th and 5th Avenues of Zona 1 of Guatemala City. It seems that this bridge is the usual meeting-place for the street children of Guatemala City. At approximately 1.30 a.m., a van with no distinguishing markings and in which there were two armed men in plain clothes passed by; without any warning the two men opened fire, wounding Carlos Hernández in the right thigh; according to doctors at the San Juan de Dios Hospital, where the child was taken, the wound was caused by a calibre 38 bullet; the other child, "Caballo", was not hit by the bullets even though the unidentified gunmen apparently aimed at his legs. After this incident, "Caballo" asked Casa Alianza for help: the Casa Alianza organization looks after the street children of Guatemala and has carried out investigations, or has asked them to be carried out, into abuses presumably committed by the police against these children.

214. In his cable to the Government dated 26 July 1991, (see para. 205), the Special Rapporteur had already sent information he had received concerning an incident which had taken place in July 1991, when unidentified gunmen drove at high speed towards the Casa Alianza emergency centre after directing death threats against its Director, Bruce Harris, staff and the street children assisted by the organization. Subsequently, on 31 July, the severely tortured body of an unidentified street child was found on a rubbish tip near an electricity pylon in Zona 3 of Guatemala City. According to the information, the child's eyes had been gouged out and the head beaten or crushed so violently that identification was impossible; the staff of Casa Alianza requested the competent authorities to conduct an investigation into the death of the child.

215. According to many reports, this last year has seen an alarming rise in the number of violations of the human rights of street children, including extrajudicial executions, attempted extrajudicial executions and death threats. In many of these cases the perpetrators are thought to be members of the security forces and, in particular, the police, whose members work sometimes in plain clothes and sometimes in uniform. Furthermore, the Special Rapporteur has received information concerning violations of human rights perpetrated by agents of private security firms. It has been reported that there are approximately 39 cases pending before the courts of Guatemala against more than 50 members of the National Police; however, it appears that investigations rarely lead to the prosecution and conviction of those responsible. Furthermore, children who have testified or provided information concerning abuses committed against other street children have experienced reprisals and persons working with street children have been subjected to harassment, intimidation and death threats. Lastly, information has been received that, at the beginning of August 1991, the Juvenile Court ordered the closure of the Casa Alianza legal service on the grounds that it had no authority to defend minors.

216. In this connection, the Special Rapporteur referred to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, and to the principles embodied in articles 3 and 6 respectively of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. In addition, the Special Rapporteur referred to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana, Cuba, from 27 August - 7 September 1990. These principles established, inter alia, that "law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result"; that "law enforcement officials shall identify themselves as such and give a clear warning of their intent to use firearms"; and that "Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law".

217. The Special Rapporteur appealed to the Government of Guatemala to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons. In addition he requested information on those measures as well as on the investigations carried out by the authorities in these cases.

218. On 4 September 1991, the Special Rapporteur sent another cable to the Government of Guatemala concerning the journalists Juan Carlos Ruiz, Hugo García, Silvino Velásquez, Miguel Angel Lopez and Maricel Dieguez, the trade unionists Rosendo de León Dubón and Mauricio Raxcacó Henriquez and the peasant Rolando René Pérez.

219. In July 1991, three journalists, Juan Carlos Ruiz (of Cronica) Hugo García (of Grafico) and Silvino Velásquez (of Prensa Libre) were reportedly attacked by unidentified individuals and robbed of their wallets and identity papers. On 12 August, the same journalists and other persons working for the radio programmes El Independiente and Patrullaje Informativo allegedly received anonymous telephone calls in the course of which they were threatened and asked why they were interested in the following: legal proceedings against soldiers, the cases of Myrna Mack, Michael Devine and Diana Ortiz, and the trial of Dino Roberto Villata Valdez, son of a Government deputy-minister. On 19 August 1991, members of the National Police reportedly dismantled a bomb found on the ninth floor of the El Centro building situated on 7th Avenue and 9th Street of Zona 1. This building contains the offices of the Mexican Press Agency (Notimex), the newspaper Crítica, the DPA agency and the Ethnic Communities Council "Runujel Junam" (CERJ). On 24 August 1991, two men allegedly entered the Notimex offices without identifying themselves, asked about two correspondents, Mr. Miguel Lopez and Mr. Maricel Dieguez, and went throught the files. On the following day the two correspondents, in fear of their lives, are said to have left the country.

220. The two trade unionists, Rosendo de Léon Dubón and Mauricio Raxcacó Henriquez, had previously been threatened and persecuted (see para. 203). Mr. Raxcacó Henriquez is Secretary for Education, Art and Culture, and thus a member of the Executive Committee of the National Federation of State Workers' Trade Unions of Guatemala (FENASTEG). On 19 August 1991, he was allegedly the target of an attempted abduction in Guatemala City. Furthermore, it is said that the threats against Mr. de Léon Dubón have continued. According to information received, on 19 August 1991, when Mr. Raxcacó Henriquez left his home in Zona 1 (which had apparently been under surveillance during the previous two weeks) at approximately 8.30 p.m. he was intercepted by four men in plain clothes travelling in a white car with tinted windows: they allegedly beat him up and said that, like Mr. de Léon Dubón, he had disregarded previous warnings and had become a nuisance. Furthermore, they asked him where Mr. de Léon Dubón was, but when they tried to bundle him into their car Mr. Raxcacó Henriquez managed to escape and sought refuge in the offices of the Red Cross. The following day, members of the National Police in plain clothes allegedly turned up at the Red Cross offices to interview Mr. Raxcacó; on the same day it is said that another group of uniformed police officers also questioned him. Mr. Raxcacó Henriquez subsequently left and went into hiding.

221. According to information received, Rolando René Pérez, a peasant from Los Cerezoz, Tejutla, San Marcos, received verbal and written death threats from the Intelligence Corps of the G-2 Army, from the death squad known as the "Black Hand" and from the Civilian Self-defence Patrols and military commissioners of the region.

222. On 10 September 1991, the Special Rapporteur sent another cable to the Government of Guatemala concerning his previous cables of 10 May 1991 and 17 June 1991 (see paras. 195 and 200) which contained allegations concerning death threats received by Amilcar Méndez Urizar, leader of the Ethnic Communities Council "Runujel Junam" (CERJ). According to the information, on 24 August 1991, Mr. Méndez received a further written message at the CERJ offices in Guatemala City threatening him with death and signed by Jaguar Justiciero, a death squad to which many assassinations and disappearances have been attributed in the past and to which it is suspected that members of the armed forces and security forces belong. Subsequently, on 29 August 1991, a group of four men, two of them dressed in black and the other two in army uniforms, appeared at the home of Mr. Méndez's sister in Colonia San Francisco, Guatemala City, asking for him; when they could not find him they also questioned the neighbours. After this incident, Mr. Méndez contacted the Minister of the Interior in order to find out whether these men had been sent officially; however, it seems that the Minister's reply was in the negative.

223. On 11 October 1991, the Special Rapporteur sent another cable to the Government of Guatemala concerning information received indicating that the life and physical integrity of the trade unionists Rosendo de Léon Dubón, Mauricio Raxcacó Henriquez, Armando Sánchez and David Montejo were at risk.

224. Further to the cables sent to the Government dated 25 July 1991 and 4 September 1991 (see paras. 203 and 218), concerning telephoned death threats against trade unionists Rosendo de Léon Dubón and Mauricio Raxcacó Henriquez in April and June 1991 and the attempted abduction on 19 August 1991 of Mr. Raxcacó Henriquez, it was reported that Mr. de Léon Dubón was still being harassed and was still receiving threats against his life, but that Mr. Raxcacó Henriquez had left the country.

225. It was further reported that Armando Sánchez and David Montejo, two other trade union leaders and members of the executive committee of FENASTEG, had also been harassed and threatened with death. On 10 September 1991 Mr. Sánchez, General Secretary of FENASTEG and Mr. Montejo, Union Liaison Secretary, both received anonymous telephone threats at home warning them that if they did not leave the country within 72 hours they would be bumped off. It was also reported that, since April 1991, Mr. Sánchez had received serious threats against his life and that unknown individuals had kept him under constant surveillance.

226. In the three cables mentioned above (see paras. 218, 222 and 223), the Special Rapporteur referred to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council in its resolution 1989/65 of 24 May 1989, which state that "effective protection through judicial or other

means shall be guaranteed to individuals and groups who are in danger of extra-legal, arbitrary or summary execution, including those who receive death threats" and to the relevant principles embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights which state, in articles 3 and 6 respectively, that every individual has the right to life and security of the person, that this right shall be protected by law and that no one shall be arbitrarily deprived of his or her life. In addition, the Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons. He also requested information on those measures as well as on the investigations carried out by the authorities in these cases.

227. On 13 November 1991, the Special Rapporteur sent another cable to the Government of Guatemala concerning information received relating to the life and physical integrity of Verónica Ortiz Hernández, a member of the Unidad Revolucionaria Nacional Guatemalteca (URNG). According to witnesses, Ms. Ortiz Hernández, 22 years old, had been captured by army troops on 16 October 1991, after being wounded during fighting in Sacatepequez department. Her detention has been denied and there is concern for her physical integrity.

228. In this connection, the Special Rapporteur referred to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, and the relevant articles of the Universal Declaration of Human Rights (art. 3) and the International Covenant on Civil and Political Rights (art. 6). Bearing in mind the fact that, according to information received, the army never admits to having captured guerrilla fighters and that concern had been expressed for the life and physical integrity of the person mentioned above, the Special Rapporteur appealed to the Government to take all measures at its disposal to protect her life and physical integrity. In addition, he requested information on those measures as well as on the investigations carried out by the authorities in this case.

229. On 13 November 1991, the Special Rapporteur sent another cable to the Government of Guatemala concerning information received indicating that the life and physical integrity of Luisa Ruiz Saquic and 11 other inhabitants of Tuanaja, Zacualpa, El Quiché, were at risk. According to that information, Ms. Ruiz Saquic and 11 inhabitants of Tuanaja, all members of the Mutual Support Group for the return alive of our relatives (GAM), were threatened with death by various members of the Civilian Self-defence Patrols (PAC) of that area, one of them being Mr. Santos Coj Rodriguez. Ms. Ruiz Saquic and the 11 persons mentioned above were reportedly to testify at the trial, then under way, of Mr. Santos Coj Rodriguez and other members of PAC, all accused of having tortured and killed relatives of inhabitants of Tuanaja in 1982 and 1983. It was said that in April 1989 a secret cemetery had been discovered in Tuanaja in which the bodies of eight of the victims of the incidents described above were buried. Since then, GAM has requested that those responsible for these human rights violations should be brought before a court. Also since then they have received death threats from Mr. Santos Coj Rodriguez and members of his family. Mr. Santos Coj Rodriguez was allegedly detained in June 1991 but in October 1991 relatives of the

victims were informed that he had escaped. It is reported that although the authorities know where he is, they have no intention of detaining him again. Since the escape, Ms. Ruiz Saquic and the other witnesses have once more been threatened with death; Ms. Ruiz Saquic and another member of GAM apparently sought refuge in the GAM office in Guatemala City. On 7 November 1991, six men allegedly appeared in front of the office and before leaving brandished their weapons.

230. In this connection, the Special Rapporteur referred to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, and to the relevant articles of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Furthermore, in view of the fact that the persons mentioned above cooperated regularly in the procedures established by the United Nations to protect human rights, the Special Rapporteur also referred to resolution 1991/70, adopted by the Commission on Human Rights on 6 March 1991, in which it urged Governments to refrain from all acts of intimidation or reprisal against private individuals and groups who seek to cooperate with the United Nations and representatives of its human rights bodies. In addition, he appealed to the Government of Guatemala to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons. He also requested information on those measures as well as on the investigations carried out by the authorities in these cases.

231. On 4 December 1991, the Special Rapporteur sent a cable to the Government of Guatemala concerning information received indicating that the lives and physical integrity of Alba Méndez and Vilma Martínez, two Dominican nuns, and peasants from the El Pilar farm, La Reforma, San Marcos, had been threatened. According to the information, on 10 November 1991, armed men broke into the building in Zona 3, Guatemala City, where the nuns Méndez and Martínez lived. These men, alleged to be connected with the Government's security forces, apparently left a message threatening the nuns with death. The previous day the nuns had made it known that on 5 November 1991 their quarters had been broken into. On 17 November 1991, soldiers from the Santa Ana Berlin detachment had allegedly rounded up the peasants of the El Pilar farm, La Reforma, San Marcos, and threatened them with death.

232. In this connection, the Special Rapporteur referred to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, to the principles embodied in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons and in addition requested information on those measures as well as on the investigations carried out by the authorities in these cases.

Government replies

233. On 20 February 1991, a communication was received from the Government of Guatemala transmitting articles from three daily newspapers, El Gráfico,

Prensa Libre and Siglo Veinte, denouncing the massacre of 10 members of a Civil Defence Patrol near Playa Grande, El Quiché, on 16 February 1991, allegedly by armed irregulars and drug-traffickers.

234. On 21 March 1991, a communication was received from the Government of Guatemala transmitting articles from two daily newspapers, El Gráfico and Prensa Libre concerning the condemnation of four members of the National Police to prison sentences of between 10 and 15 years for the murder of Nahaman Carmona Lopez, a street child, on 4 March 1990 in Guatemala City.

235. On 9 July 1991, a communication was received from the Attorney for Human Rights, Ramiro de Léon Carpio, announcing the creation of the Commission of Investigation on the Disappeared.

236. On 10 July 1991, a communication was received from the Government of Guatemala transmitting a statement from the Attorney for Human Rights denouncing the massacre of 10 members of a Civil Patrol near Playa Grande, El Quiché, on 16 February 1991, by armed irregulars known as the Unidad Revolucionaria Nacional Guatemalteca (URNG).

237. On 17 July 1991, a communication was received from the Government of Guatemala stating that threats against Amilcar Méndez Urizar and Miguel Sucuqui Mejía, both members of the Indigenous People's Council "Ranujel Junam", were under investigation by the competent authorities.

238. On 28 November 1991, a communication was received from the Government of Guatemala in answer to the Special Rapporteur's appeal of 13 November 1991. The communication transmitted a court order issued on 21 November 1991 by the Office of the Public Prosecutor requesting Verónica Ortiz Hernandez, allegedly in the hands of the security forces in Sacatepequez, to appear in person before the Supreme Court of Justice.

2. Other cases transmitted by the Special Rapporteur

239. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Guatemala transmitting allegations of summary or arbitrary executions which reportedly took place between May 1990 and July 1991 and concerned over 100 people, among them trade union activists, members of the CERJ as well as numerous peasants and members of the indigenous communities. In the same letter, the Special Rapporteur also transmitted information he had received according to which more than 200 peasants were victims of death threats after having refused to join the Civilian Self-Defence Patrols. Other cases of death threats sent to the Government of Guatemala concerned more than 20 trade unionists, members of CONAVIGUA, CERJ and GAM, one human rights activist and two politicians.

240. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Guatemala to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Government reply

241. On 16 December 1991, a communication was received from the Government of Guatemala transmitting information concerning the following cases:

(a) Gustavo Adolfo Paniagua Muñiz. The Second Examining Court of First Instance assumed jurisdiction in this case and on 5 February 1991 ordered an investigation by the National Police; as a result of the investigation charges were brought against Juan de la Cruz Regalado Monzón, who was accused of a crime passionel;

(b) Byron Estuardo Polanco. No one has been charged. The government procurator's office has already taken action in this case;

(c) Margarita Chávez. The Court of First Instance of Petén department has ordered an investigation into the assassination of Ms. Chávez. No one has so far been charged with this criminal offence;

(d) Pedro García Chuc. This case is being tried by the Court of First Instance of Sololá department and the sequence of events so far has been as follows: on 5 March 1991, on being informed of the disappearance of Mr. García Chuc, the National Police began an investigation in which Mario Rocael García Yax, the son of the murder victim, stated that his father had gone out on 4 March 1991 at 4.40 a.m. after hearing shots fired; on the following day it was reported that the body of Mr. García Chuc was in the National Hospital of El Quiché, after being found in Chichuá canton, Chichicastenango. The government procurator's office, on declaring itself a subject at law in the proceedings, requested that Alfredo Felipe García Yax, Oscar González Vásquez and Antonio Salazar Herrera should be subpoenaed in order to hear the statement made during questioning by Esteban Alvarex and Domingo Pascual Tax who, according to the National Police, were suspects;

(e) Manuel and Pablo Ajiataz Chivalan. The Second Examining Court of First Instance of El Quiché department has ordered an investigation into the murder of the above-mentioned persons. At present no one has been charged and the proceedings are in their pre-trial phase;

(f) Juan Perebal, Manuel Perebal and Diego Perebal. In this case criminal proceedings have been brought before the Second Examining Court of First Instance of El Quiché department against Manuel Perebal Ajtzalam Tercero and Manuel León Lares for the crimes of murdering and wounding the persons in question;

(g) Miguel Sucuqui Mejía. The Inter-American Court of Human Rights, at the behest of the Inter-American Commission on Human Rights of the Organization of American States, appealed to the Government to provide appropriate protection for Mr. Sucuqui Mejía in order to protect and safeguard his life; this request was complied with by the Government of Guatemala;

(h) Miguel Calel. Following the investigation into the murder of Mr. Calel, it was established that one of those responsible for the crime was Cecilio Ajca Chanchavac. Days after the crime took place, Francisco Vicente,

a resident of the same canton, went to the home of Macedonia Calel López, the mother of the deceased, where he said she would be risking her life if she provided the authorities with information about the death of her son. The investigation is continuing and is being pursued vigorously;

(i) Amilcar Méndez Urizar. The following proceedings are under way:

(a) Before the Second Examining Court of First Instance of Santa Cruz, El Quiché department, a trial for the crime of making threats (at present in closed session);

(b) Before the same court, criminal proceedings for the crime of making threats (at present in closed session);

(c) Before the Criminal Trial Court of First Instance of Santa Cruz, El Quiché department, criminal proceedings against Guillermo Imultun, a prison warden, accused of the crime of making threats; he is at present awaiting sentencing. At the request of the Inter-American Court of Human Rights, the Government of Guatemala provided suitable protection for Mr. Méndez Urizar in order to safeguard his life even though he had decided to leave the country with his family owing to death threats by the self-styled Jaguar Justiciero group, which knows that he is living in Washington;

(j) Leandro Barillas. Criminal proceedings have been instituted before the Court of First Instance of Sololá, against the National Police of the municipality of San Lucas Tolimán, Sololá (there are no individual defendants) for the crime of homicide. The government procurator's office has intervened in the case, requesting to hear the informer, César Barillas Pérez.

3. Additional information received by the Special Rapporteur

242. Many human rights organizations emphasized in their communications to the Special Rapporteur that violations of the right to life continued to occur in Guatemala on an alarming scale. Between March and June 1991, more than 400 people were reported to have been extrajudicially executed, more than 350 others were said to have been threatened with death. According to information received by the Special Rapporteur, those responsible for the reported summary or arbitrary executions included the Guatemalan Armed Forces as well as other Security Forces and paramilitary groups believed to be linked to or act with the acquiescence of the authorities. It was also alleged that some retired or off-duty members of official security forces have at times acted with these unofficial groups.

243. According to information submitted to the Special Rapporteur, the principal targets for summary or arbitrary executions and death threats are persons linked to trade unions and political opposition groups, members of organizations that represent indigenous people - in particular, the Council of Ethnic Communities "We are all equal" (CERJ), the Mutual Support Group (GAM), and the National Association of Guatemalan Widows (CONAVIGUA) - as well as human rights activists, peasants, students, academics and street children. In particular, it was reported that a large number of peasants, especially from

the indigenous communities, were subjected to death threats after refusing to join the ostensibly voluntary Civilian Self-defence Patrols (PAC). The PAC are said to cooperate with the official security forces.

244. The Special Rapporteur received further information according to which these human rights violations took place in a climate of impunity. It was alleged that, almost without exception, official personnel were not charged with abuses even when specific evidence of their guilt was available, and that in the rare cases where officers had been charged, no conviction or sentence was carried out for serious violations of human rights abuses. In particular, the PAC are reported to act with impunity. Only one case had been reported as an exception to this rule: four members of the police, responsible for the brutal killing of the street child Nahamán Carmona López, on 4 March 1990, were sentenced to several years of imprisonment in March 1991.

245. It was also reported that the murderer of Myrna Mack Chang would be deported from the United States. The army secret agent, who was in Los Angeles, California, was to be deported for being illegally in the country. Noel de Jesús Beteta Alvarez had been declared a fugitive from justice several weeks previously when a thorough investigation had established his participation in the assassination of the anthropologist Mack Chang. In connection with this case, Fernando Hurtado Prem, the Minister of the Interior, stated that no one found guilty would benefit from a cover-up. However, Ms. Mack's relatives also called for the punishment of those who had masterminded the assassination, which they described as being of a political nature.

246. On the other hand, the Special Rapporteur's attention was also drawn to several incidents throughout 1990 and 1991 in which members of the PAC and other civilians were reportedly killed by the guerrilla group National Revolutionary Unit of Guatemala (URNG). During armed confrontations with government forces and terrorist attacks, guerrilleros allegedly also caused the death of a number of members of the army and the police.

Haiti

1. Appeals for urgent action

247. On 4 October 1991, the Special Rapporteur sent a cable to the Haitian Government, drawing its attention to information received alleging that at least 100 persons had been killed and over 200 wounded following violent disturbances which began in the evening of 29 September 1991 in Port-au-Prince.

248. In this connection, the Special Rapporteur referred to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council in resolution 1989/65 of 24 May 1989, to the principles embodied in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. He also drew the Government's attention to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and, in particular, to paragraphs 4, 5, 9 and 10, which are based on the fundamental principle that the amount of force used should be

in proportion to the objective to be achieved. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons and requested information on those measures, as well as on the investigations carried out by the authorities in these cases.

249. On 23 October 1991, the Special Rapporteur sent a cable to the Haitian Government indicating that, since the coup d'état which toppled President Jean-Bertrand Aristide on Monday, 30 September 1991, hundreds of people were alleged to have been executed extrajudicially and hundreds more wounded, most of them by Haitian security forces.

250. The Special Rapporteur has received specific information on the following cases:

(a) A group of soldiers apparently burst into the home of Jacques Caraïbe, the Director of Radio Caraïbe, on Monday, 30 September 1991. It is said that he was severely beaten in the presence of his family and taken away to an unknown destination. His body was found later. On the same day, Roger Lafontant, a minister in the overthrown Duvalier Government, who had launched an abortive coup d'état in January 1991, was reportedly killed inside the National Penitentiary. An arrest reportedly followed this murder.

(b) On the following day, Jacques Seus Jean-Gilles, 70 years old, was allegedly killed and five other persons wounded when the security forces attacked the premises of the Lafanmi Selavi orphanage. On 2 October 1991, on the Soleil housing estate, soldiers reportedly shot and killed at least 30 persons and wounded several others in retaliation for a previous attack by a crowd on a police station which had led to the death of two policemen.

(c) The extrajudicial execution of 30 to 40 persons in the Lamentin area by soldiers, apparently in retaliation for the murder of a soldier by an angry crowd. Soldiers are said to have burst into several houses in the area, shooting and killing some people and forcing others to bury the dead.

(d) The extrajudicial execution by the security forces of six persons at Gonaïves, apparently in retaliation for the erection of barricades at various points in the town.

(e) The extrajudicial execution of civilians by members of the security forces in various parts of Port-au-Prince; they allegedly fired deliberately and at random into a crowd of civilians who were peacefully demonstrating in support of President Aristide.

(f) Shots were allegedly fired at ambulances by the security forces in order to prevent the medical treatment of the wounded.

(g) Three well-known supporters of President Aristide, namely, Manno Charlemagne, Camille César and Camille Bazile, were reportedly arrested on 9 October following the coup d'état. It is not known where they are being held.

251. In this connection, the Special Rapporteur referred to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, to the principles embodied in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons and requested information on those measures, as well as on the investigation carried out by the authorities in these cases.

252. On 7 November 1991, the Special Rapporteur sent a cable to the Haitian Government pointing out that, despite his cable of 23 October 1991, in which he had expressed his concern for the life and physical integrity of Mr. César and Mr. Bazile, he had just been informed that their bodies, riddled with bullets, had been found at the Port-au-Prince morgue; they had apparently been the victims of an extrajudicial execution. The Special Rapporteur had also been informed that Serge Etienne, a supporter of President Aristide, had been arrested on 27 October 1991 and he expressed the fear that the life and physical integrity of Mr. Etienne might also be at risk.

253. The Special Rapporteur, concerned by the loss of those two human lives, appealed to the Haitian Government to take all necessary measures in order to prevent more bloodshed in similar circumstances and requested more details on the above-mentioned incident, the results of the investigations carried out in this case, the measures taken by the authorities to prevent the recurrence of such incidents and on measures taken to protect the life and physical integrity of Mr. Etienne.

254. On 13 November 1991, the Special Rapporteur sent a cable to the Haitian Government concerning information indicating that a group of soldiers had surrounded the science faculty of the University of Haiti where, on 12 November 1991, a meeting had been called by the National Federal of Haitian Students (FENEH). The soldiers had reportedly burst into the building and fired on the students, wounding several of them, who were then taken away from the university. The soldiers were also said to have forced other students into lorries and to have driven them to the Anti-Gang Section of the Investigation Service. Later that evening residents living near the Investigation Service reportedly contacted humanitarian organizations because they claimed to have heard cries coming from the Service. Furthermore, it would appear that the Haitian armed forces subjected those detained in the Anti-Gang Section of the Investigation Service to torture and ill-treatment and fears were expressed that some detainees might become the victims of extrajudicial executions.

255. In this connection, the Special Rapporteur referred to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, to the principles embodied in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. He also drew the attention of the Government to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and in particular to paragraphs 4, 5, 9 and 10, which are based on the fundamental principle that the amount of force used should be in

proportion to the objective to be achieved. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons and requested information on those measures, as well as on the investigations carried out by the authorities in these cases.

256. At the time of the preparation of the present report, no reply had been received from the Haitian Government.

2. Other cases transmitted by the Special Rapporteur

257. On 8 November 1991, the Special Rapporteur sent a letter to Government of Haiti transmitting information he had received on a number of incidents. In March 1990, the military reportedly opened fire in Borgne, a town in northern Haiti, on a group of demonstrators from the Peasant Movement of Borgne (PMB), who had taken to the street to show their joy after the departure of the former President, General Prosper Avril. Fifteen people were said to have been killed. A second incident in which the police allegedly shot at peaceful demonstrators was reported to have occurred on 27 January 1991 in Carrefour, a suburb of Port-au-Prince, causing the death of eight people.

258. In the same letter, the Special Rapporteur transmitted to the Government of Haiti further allegations he had received, according to which a Haitian businessman, an opponent of the Duvalier regime, was shot in his home in Musseau, a residential area in the neighbourhood of Port-au-Prince, in August 1990, allegedly by five members of the army in civilian clothes. The Special Rapporteur had also received information concerning the death, as a result of torture, of a prisoner at the National Penitentiary of Port-au-Prince on 30 August 1990. Members of the Anti-Gang Section of the Investigation Service of the police were said to be responsible.

259. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Haiti to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Government reply

260. On 20 November 1991, the Government of Haiti, in reply to the Special Rapporteur's letter dated 8 November 1991, stressed that the situation in Haiti was extremely worrying. As soon as the legitimate President, Jean-Bertrand Aristide, and his Government were restored to power, the documentation would be forwarded to the Haitian authorities so that they could act upon it.

Honduras

1. Appeals for urgent action

261. During 1991, no appeals for urgent action were sent by the Special Rapporteur.

2. Other cases transmitted by the Special Rapporteur

262. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Honduras transmitting 11 cases of alleged summary or arbitrary executions. Seven of these cases concerned acts of violence against peasant activists. On 3 May 1991, five peasants were killed by a group of about 15 soldiers and private security guards at Agua Caliente. This incident took place in the larger context of disputes over the distribution of land between peasants, whose property rights were reported not to be sufficiently protected by the authorities, and members of the army, who allegedly exploit this situation in order to take over the land themselves. In three of these cases, it was alleged that agents of the Public Security Force (Fuerza de Seguridad Pública (FUSEP)) were responsible for the killing of leading activists of the National Union of Farm Workers (Central Nacional de Trabajadores de Campo (CNTC)). Three further cases transmitted to the Government of Honduras by the same letter concerned the execution of two human rights activists and a student, allegedly perpetrated by members of FUSEP, the National Directorate of Investigations (Dirección Nacional de Investigación (DNI), and plainclothes policemen, respectively. It was alleged that judicial investigations were not duly carried out by the authorities.

263. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Honduras to provide him with information on the above-mentioned case, and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

India

1. Appeals for urgent action

264. On 24 December 1991, the Special Rapporteur sent a cable to the Government of India concerning Narra Prabhakar Reddy. According to information received, on 7 December 1991, Mr. Reddy, aged 35, a lawyer and District Unit Convenor of the Andhra Pradesh Civil Liberties Committee (APCLC), as well as Secretary of the District Bar Association, was shot dead in his home by four unidentified men travelling on scooters without number plates. The District Bar Association reported that Mr. Reddy had previously been threatened by the police in connection with his legal work with political activists and that the Bar Association had requested the District Magistrate for the area to intervene to stop the police from harassing Mr. Reddy. Although a post-mortem was conducted, no inquest was reportedly held. It was also reported that human rights activists had sometimes been targets of police repression. Two senior activists of APCLC were reportedly killed by the police in 1985 and 1986.

265. In this connection, the Special Rapporteur referred to paragraphs 4 and 18 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, to the principles embodied in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the

life and physical integrity of the above-mentioned person and requested information on these measures, as well as on the investigation carried out by the authorities in this case.

266. At the time of the preparation of the present report, no reply had been received from the Government of India.

2. Other cases transmitted by the Special Rapporteur

267. On 8 November 1991, the Special Rapporteur sent a letter to the Government of India transmitting 401 cases of alleged summary or arbitrary execution. According to reports received, hundreds of people had allegedly been extrajudicially executed as a result of abuse of force by Indian armed Units on different occasions, notably in the states of Jammu and Kashmir, Punjab and Uttar Pradesh between 1988 and 1991. It was reported that in Jammu and Kashmir demonstrators demanding independence were shot dead by the police without warning on 20 May 1990. A series of arbitrary killings of unarmed people during demonstrations was reported, of which the incident of 20 May 1990 was an example, in which hundreds of people were allegedly killed by police between October 1989 and 20 May 1990. A list of the names supplied by hospital sources in Srinagar, Kashmir, was published in the daily newspaper Aftab on 29 May and 3 June 1991.

268. According to information received, on 11 June 1991, some 25 civilians were allegedly killed by security forces in Chota Bazaar district of Srinagar. On 12 June 1991, a police official in Srinagar reportedly admitted the killing of the 25 civilians. Reportedly 16 people died as a result of torture by prison authorities in Jammu and Kashmir in 1988 and 1989. On 11 March 1991, central reserve police opened fire on shops in Srinagar, killing three people and injuring a 10-year-old child. Reportedly this version of events was confirmed by police officials in Srinagar. It was also reported that in July 1990, the Government had applied the Armed Forces Special Powers Act to Jammu and Kashmir. Already in force in north-east India, these measures empowered the security forces to shoot and kill with immunity from prosecution.

269. As a result of disturbances between the Hindu and Muslim communities in the state of Uttar Pradesh in late 1990, the Provincial Armed Constabulary (PAC) was used to deal with violence between the two communities particularly in the towns of Aligarh, Kanpur and Bijnore. Reportedly, in the course of doing so, members of PAC were alleged to have killed several unarmed civilians. One of the allegations concerned extrajudicial killings of innocent civilians in Aligarh in early December 1990. The death toll due to communal violence between 7 and 15 December 1990 in Aligarh was reported to be 57. Among these reports were allegations that, on 9 December, in Aligarh, two brothers, both of them rickshaw-pullers, were shot by six PAC soldiers.

270. It was further reported that, on 13 July 1991, 10 Sikhs were allegedly killed by police personnel near Pilibhit, in Uttar Pradesh. Reportedly, the 10 men were taken from a bus that had been hired to tour Sikh shrines in the area, and had been accused of having links with an armed Sikh opposition group. One of the allegations concerned a person found hanging from a tree in Vedaranyam, Thanjavur district, Tamil Nadu, on 20 July 1991, after being

imprisoned for three days. It was also reported that the victim had been arrested on 17 July 1991 in connection with Rajiv Gandhi's murder and allegedly had died after having been tortured in police custody.

271. In Punjab, there were further allegations of extrajudicial killings in "encounters" staged by the police. One of the allegations concerned the death in June 1990 of two members of the All-India Sikh Students' Federation as a result of torture for several hours, by police. It was also reported that hundreds of politically motivated killings were allegedly committed by government forces in the course of last year's clashes.

272. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of India to provide him with information on the above-mentioned case and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Government reply

273. On 31 December 1991, a reply was received from the Government of India to the Special Rapporteur's letter of 8 November 1991 stating that the right to life and personal liberty was a fundamental right conferred on all citizens by the Constitution of India. Moreover, India's deep commitment to democracy and to the rule of law was as important as the law itself. A free, impartial and investigative press, and assertive public opinion fortified democratic guarantees and legal safeguards which were tested in practise. Furthermore, the actions of the State in maintaining law and order were subject to judicial review. Even the findings of courts martial and other such inquiries could be challenged by the persons concerned and were liable to scrutiny by higher courts.

274. With regard to the allegations contained in the Special Rapporteur's letter, it was noted that almost the entire list of cases alleging summary or arbitrary executions stated to have occurred related to Jammu and Kashmir. In a very large number of cases, specific dates of the alleged incidents were not stated and they were merely alleged to have taken place between October 1989 and May 1990. In some instances, only the name of a person alleged to have been executed was provided, with no indication as to where and when the alleged incident had occurred. When allegations were unsubstantiated by even minimum facts, there were reasonable grounds for thinking that they could have been fabricated or part of an attempt at disinformation.

275. It was emphasized that it was a fundamental responsability of the Government to maintain law and order so that its citizens could enjoy their fundamental human rights. The Government of India was doing so with the maximum of restraint in the face of a continued campaign of terrorism and violence in Jammu and Kashmir, instigated from abroad and by terrorist groups supported and trained in the region.

276. The allegations appeared to be part of just such a disinformation campaign. The independent and impartial Press Council of India had recently conducted an inquiry into allegations of human rights violations by security forces in Jammu and Kashmir and had concluded that the allegations were

grossly exaggerated or even invented. Some of the allegations were found to be a massive hoax orchestrated by terrorist groups as part of a larger strategy of psychological warfare using a smear campaign in an attempt to internationalize the issue of human rights in Kashmir.

Indonesia

1. Appeals for urgent action

277. On 27 May 1991, the Special Rapporteur sent an urgent cable to the Government of Indonesia concerning Kamjai Khong Thavorn who had been sentenced to death by firing squad and who was in danger of imminent execution. According to the information, Mr. Thavorn was sentenced to death for drug smuggling in January 1988. His appeals to the High Court of East Kalimantan and to the Supreme Court were rejected in March and December 1988, respectively. In March 1991, the Indonesian authorities announced publicly that Mr. Thavorn's appeal had been rejected during the previous month and that preparations for the execution were under way. The exact date of the execution had not been announced. Mr. Thavorn was believed not to have been informed that his appeal for presidential clemency had been turned down; in addition, Mr. Thavorn's lawyers had been involved only in the High Court appeal. Reportedly, they were not informed of his appeal to the Supreme Court, or of their client's application for presidential clemency; moreover, the lawyers allegedly had learnt of the President's rejection of the clemency appeal through newspaper reports. Since his imprisonment in 1987, Mr. Thavorn had allegedly received no visits or letters from his family, although reportedly he had a wife and child in Thailand. In addition, a qualified interpreter had not been made available to Mr. Thavorn when his case first was heard before the District Court. According to the information, Mr. Thavorn had an elementary school education and could not speak Indonesian.

278. In this connection, the Special Rapporteur referred to paragraph 5 of the Safeguards guaranteeing protection of the rights of those facing the death penalty, approved by Economic and Social Council resolution 1984/50 of 25 May 1984, to article 14 of the International Covenant on Civil and Political Rights, to paragraph 37 of the Standard Minimum Rules for the Treatment of Prisoners, and to article 3 of the Universal Declaration of Human Rights. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned person and requested information on those measures as well as on the investigation carried out by the authorities in that case.

279. On 13 November 1991, the Special Rapporteur sent a cable to the Government of Indonesia concerning the death of at least 50 persons in Dili, East Timor, on 12 November 1991 in the context of an excessive use of force by the Indonesian army. According to the information, anti-Government protests erupted among the mourners during a memorial service for two youths who had been killed on 28 October 1991 in a clash with the police. In response, army personnel allegedly opened fire on the crowd, killing between 50 and 100 persons.

280. In this connection, the Special Rapporteur referred to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and

to the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, approved by the Economic and Social Council in resolution 1989/65 of 24 May 1989, and particularly paragraphs 9 to 17 and 18 to 20 thereof concerning investigations and legal proceedings, respectively. He appealed to the Government for any information in connection with measures taken to ensure that the right to life was safeguarded and on the relevant investigations carried out by the authorities as a result of the above-mentioned incident.

281. On 27 November 1991, the Special Rapporteur sent a cable to the Government of Indonesia acknowledging its response, on 20 November 1991, to his cable of 13 November 1991. He took note with satisfaction that a National Commission of Investigation had been established and appealed to the Government to ensure that a thorough, independent and impartial investigation into the circumstances of the killings of 12 November was made and that those identified by the Commission as responsible for extrajudicial killings and other abuses would be brought promptly to justice.

282. He also pointed out that he had received further allegations according to which a large number of persons, possibly as many as 300, had been detained in the aftermath of the incidents of 12 November 1991. Some persons had reportedly been tortured and killed in police or military custody. According to one report, between 60 and 80 detainees, including witnesses to the killings of 12 November, and suspected political activists were taken on 15 November 1991 from various prisons in Dili, driven to a place outside the town, and shot and buried in unmarked graves. Those reported to be responsible for these extrajudicial killings were said to have been members of battalions No. 700 and No. 744 of the Hasanuddin division, based in south Sulawesi.

283. In this connection, the Special Rapporteur referred to paragraphs 1, 9 and 18 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions to the principles embodied in the Universal Declaration of Human Rights and to article 9 of the International Covenant on Civil and Political Rights. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and physical integrity of its citizens and requested information on these measures as well as on the investigation carried out by the authorities in those cases.

Government replies

284. On 20 November 1991, a reply was received from the Government of Indonesia to the Special Rapporteur's cable of 13 November 1991. According to the reply, it was stated that the demonstration which occurred in Dili, the capital city of East Timor, had got out of hand when a group of armed people took to the streets, carrying Fretilin (Frente Revolucionario de Timor del Este) flags and shouting hostile slogans. Apparently, at the instigation of a few elements bent on stirring up trouble, the crowd became unruly and began acting provocatively and violently. The police and security officers immediately took the necessary measures to restore order and, in doing so, exercised considerable restraint by using persuasive measures and refraining from the use of force. It was reported that, initially, 19 people had been

killed and 91 injured, two of them critically. The Government of Indonesia said that it deeply regretted the incident as well as the loss of lives and other casualties that it had caused, and President Soeharto had issued instructions for a National Commission of Investigation to be established.

285. On 24 December 1991, a further reply was received from the Government of Indonesia concerning the events of 12 November 1991. It was stated that the Government could not lightly accept the allegations that as many as 300 people had been detained in the aftermath of the incident and that between 60 and 80 people had been shot by the military. Such allegations were not substantiated by facts and were based only on biased reports. According to the Government, out of 288 suspects, 42 persons were detained for further investigations while the rest were subsequently released. While in custody, the well-being and physical integrity of the detainees was guaranteed. The Chief of the armed forces, General Sutrisno, categorically denied that between 60 and 80 people had been shot dead on 15 November; in addition, several days earlier, on 18 November, the chief spokesman for the Indonesian armed forces had also denied the news report containing that allegation.

286. The Government of Indonesia also stated that some 200 people who had participated in the demonstration and had fled from the Santa Cruz cemetery attempted to take refuge in the residence of Bishop Belo. In spite of the Bishop's refusal to accept them, about 80 people succeeded in entering the residence. With the agreement of the local authorities, Bishop Belo later drove them to their respective homes, which took 11 trips by car. In addition, some 30 people had taken refuge in the premises of the ICRC and were also subsequently returned to their respective homes. Finally, the Government underlined that the National Commission of Investigation was still carrying out its inquiry and that nothing should be done that could prejudice its work.

2. Other cases transmitted by the Special Rapporteur

287. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Indonesia transmitting 17 cases of alleged summary or arbitrary executions. It was reported that 56 detainees had allegedly been executed without trials in Rancong prison, Lhokseumawe, in Aceh. All were reportedly stripped naked and then shot at Buket Panglima. Three days later, villagers found the bodies in a ravine, most of them unidentifiable. According to information received, 20 academics and civil servants, allegedly Merdeka (Aceh independence movement) activists, had been executed after having been charged with subversion in Aceh. It was also reported that more than 132 people had been extrajudicially executed in Aceh between 11 and 30 March 1991 when Indonesian army units had reportedly raided several villages throughout Peureulak, putting down the Merdeka movement. Reportedly, some villagers escaped by boat to Malaysia where they sought refuge. The Special Rapporteur also sent information concerning death threats against two inhabitants of East Timor.

288. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Indonesia to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Iran, (Islamic Republic of)

1. Appeals for urgent action

289. On 26 March 1991, the Special Rapporteur sent a cable to the Government of the Islamic Republic of Iran concerning nine persons who had been sentenced to death and who were in danger of being executed. According to the information, the nine were part of a group of 32 alleged drug traffickers arrested on 12 January 1991 in Urimiyeh, near the Turkish border. On 5 March 1991, it was reported that the 32 persons were arrested after police had seized 2.4 tonnes of morphine and 52 firearms, and that they had killed seven members of the Islamic Republic of Iran's anti-drug force and captured nine others in an earlier attack. It was also reported that trials for capital offences had frequently failed to satisfy minimum international standards.

290. In this connection, the Special Rapporteur referred to articles 6 and 14 of the International Covenant on Civil and Political Rights. The Special Rapporteur, reiterating his concern at the unusually high number of executions reportedly carried out in the Islamic Republic of Iran, appealed to the Government to take all measures at its disposal to ensure that the provisions and safeguards provided for in the International Covenant on Civil and Political Rights were fully respected, and requested information on those measures as well as on the investigation carried out by the authorities in those cases.

291. On 3 May 1991, another cable was sent to the Government of the Islamic Republic of Iran concerning Hassan Zolfahari and Beshar Shahibi who were allegedly in danger of imminent execution. According to the information, Messrs. Zolfahari and Shahibi were reported to have been among a group of combatants of the People's Mojahedin Organization of Iran (PMOI) who had lost their way during military operations in the border region with Iraq on or about 25 March 1991. They were said to have been taken prisoner and one of them was said to have been wounded. According to the information, known members of the PMOI are gravely at risk of torture and summary or arbitrary execution under such circumstances.

292. In this connection, the Special Rapporteur referred to General Assembly resolution 43/173 of 9 December 1988 and the annex thereto containing the Body of Principles on the Protection of All Persons under Any Form of Detention or Imprisonment, to articles 3, 5 and 6 of the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons and requested information on these measures as well as on the investigation carried out by the authorities in these cases.

293. On 24 December 1991, the Special Rapporteur sent a cable to the Government of the Islamic Republic of Iran concerning the imminent executions of Ali Reza Hamid Abad, Karim Jokesht and Hamid Kord. According to the information, these three persons had been arrested on political grounds approximately 14 months previously and were currently believed to be held in Dezful. It was feared that they were in danger of execution as their

relatives had been informed by the prison authorities that the men were no longer in that prison. No information was available regarding the trial proceedings nor on their present whereabouts. In addition, it was alleged that trial proceedings in political cases appeared to fall far short of international minimum standards: they were often held in camera, they might last only a few minutes, and defendants had no access to defence counsel.

294. In this connection, the Special Rapporteur referred to the fundamental principles embodied in the Universal Declaration of Human Rights and reiterated in the International Covenant on Civil and Political Rights: he also referred to resolution 1989/64 of the Economic and Social Council which, at paragraph 1 (b), recommends that Member States [provide] for mandatory repeals or review with provisions for clemency or pardon in all cases of capital offence.

295. The Special Rapporteur also expressed his concern about reports of death threats to Saleh Radjavi who is said to be the representative of the National Council of Resistance of Iran. It was alleged that this person had received several threatening letters and, according to the information obtained, certain Iranian officials had orally disclosed plans to kill him. The source of the information alleged that, taking into consideration the evidence obtained by a Swiss judge who had investigated the murder in Switzerland of Kazem Radjavi (the brother of Saleh Radjavi) concerning the involvement of certain Iranian officials in the crime, there were sufficient reasons to believe that the life of Saleh Radjavi was at risk.

296. In this connection, the Special Rapporteur referred to article 3 of the Universal Declaration of Human Rights and appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons and requested information on those measures as well as on the investigation carried out by the authorities in those cases.

Government replies

297. On 24 January 1991, a reply was received from the Government of the Islamic Republic of Iran, in response to the Special Rapporteur's cable of 12 December 1990 concerning numerous allegations of executions. (see E/CN.4/1991/36, paras. 244 to 253). According to the reply, no action had been taken with regard to accused persons unless ordered by a competent court and the verdict examined by an appropriate judicial authority. Further information was given concerning the following persons:

(a) Amir Taavoniganji, Massoud Keshavarz, Davood Salahshour, Hassan Salari Hajiabadi, Hassan Saffaran, Mehidi Bolourforosh and Roya Bakhtiyari: there were no judicial records of executions of these persons;

(b) Abbas Raissi, Naser Sobhani and Mohsen Osman-pour: these persons were executed after having been condemned by the court on spying charges;

(c) Davoud Mohammadi and Ali Ashraf Moradi: it was stated that these persons had not been executed for political activities in opposition to the Government but, according to verdicts of the court, for smuggling 25 kg of drugs and for having committed premeditated murder, respectively;

(d) Mohammad Rezai and Seid Salesh Hosseini: these persons had not been executed; it was stated that both were alive and living their normal lives;

(e) Gholamhossein Golzar, Gholamhassan Golzar and Reza Khanian: these persons were executed for the armed robbery of a bank during which people were killed. The offenders had confessed and the verdicts of the court had been examined by judicial authorities and confirmed by the Supreme Court;

(f) Nasser Djalali and Nader Fathi: the allegation that these persons had been extrajudicially executed for having participated in May Day celebrations was refuted by the Government of the Islamic Republic of Iran. They were executed in 1989, after having been condemned by the court for their involvement in rebellious activities in the western part of the country;

(g) Mohammad Heydari: he was among those pardoned by the leaders of the Islamic Revolution and was set free;

(h) Jamal Cheragh Disi: he was executed after having been condemned by the court for terrorist activities in the Kurdistan region;

(i) Anvar Shariati: he was also executed after having been condemned by the court for participating in several armed operations against civilians resulting in the death and injury of more than 50 people;

(j) Ahmad Mohammadi: he had been involved in smuggling food across the Iran-Iraqi border and was killed in an armed clash with military forces along the western border of Iran;

(k) Mohammad Heydari: he had been extrajudicially executed after having admitted to have committed acts of pederasty.

298. On 11 November 1991, another reply was received from the Government of the Islamic Republic of Iran, in response to the Special Rapporteur's cable of 3 May 1991 (see para. 291). It was stated that, concerning the cases of Hassan Zolfahari and Beshar Shaibi, the results of the investigations had shown no indication of their arrest or judicial sentence. Moreover, the town where they were said to have been captured was situated in northern Iraq and since the establishment of the cease-fire between Iran and Iraq, no military operation had been carried out by Iranian military forces and no one had been captured, contrary to what was claimed by the source of information. It was further stated that the terrorist group to which these persons were said to have belonged had committed numerous individual and mass killings not only inside Iran but also against the Shiah and Kurdish populations of Iraq, and it had also taken part in carrying out extrajudicial killings alongside Iraqi forces. The Government also transmitted those extracts of the Constitution of March 1979 which concerned human rights and fundamental freedoms.

2. Other cases transmitted by the Special Rapporteur

299. On 8 November 1991, the Special Rapporteur sent a letter to the Government of the Islamic Republic of Iran transmitting 762 cases of alleged summary or arbitrary executions covering the period between December 1990 and

hundreds of people said to have been convicted of political and non-political offences had allegedly been executed after trials of a summary nature. In some cases, the alleged offenders were said to have been arrested, tried and executed within a few days. The defendants allegedly had no right to call witnesses in their defence or to legal representation, nor had they any effective right of appeal against the verdict or sentence.

300. It was reported that most of the executions were carried out as part of a government campaign against possession of and trafficking in drugs. Other executions were reported for political reasons, murder, rape, armed robbery, prostitution or disturbing the social order. It was alleged that a number of political opponents had been executed on non-political charges. Most of the reported executions were carried out by public hanging. Some persons were hanged after being given 74 lashes (the number prescribed by the Shariah). Three persons were stoned to death after 74 lashes, and a man was allegedly pushed from the top of a cliff. Families were allegedly forbidden to bury the bodies of their executed relatives in public graveyards; in other cases, they were not informed of the place of burial.

301. It was also alleged that Guardians of the Islamic Revolution shot dead Hosein Ahari and Fariba Akhavi, two students at the University of Tabriz, on 20 May 1991. In addition, it was alleged that several women were shot on 15 June 1991 by Guardians of the Islamic Revolution for protesting against the obligation to wear Islamic dress. It was also reported that Parivash Ameri, aged 19, had died as a result of torture while in detention: she had been arrested on 24 April 1991 by Guards of the Islamic Revolution allegedly because she was not dressed in accordance with Islamic regulations.

302. It was reported that political opponents had been attacked outside the country by agents of the Iranian Government. Such incidents included the killing of Shahpour Bakhtiar, the last Prime Minister before the Islamic Revolution, in Paris on 7 August 1991, and the killing of his secretary, Katibeh Fallouch. It was also reported that the Iranian Government continued to endorse the official death warrant and execution order issued against the person of Salman Rushdie, a novelist of British nationality, and the editors and translators of his novel The Satanic Verses. In this connection, Hitoshi Igarashi, aged 44, who had translated the novel into Japanese, was murdered on 12 July 1991. Alberto Ettore Capriolo, who had translated the novel into Italian, was stabbed in Milan on 3 July 1991.

303. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of the Islamic Republic of Iran to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Iraq

1. Appeals for urgent action

304. In connection with the hostilities in the Gulf, the Special Rapporteur made an appeal on 22 January 1991. The Special Rapporteur said that his mandate reflected the importance attached by the international community to

the protection of the most fundamental of all human rights - the right to life. It was in situations of armed conflict and hostilities such as existed in the Gulf region that even greater care had to be taken to ensure that the violation of the right to life was minimized. He therefore strongly appealed to all the combatants on both sides of the conflict to adhere to the letter and spirit of the Geneva Conventions of 1949 and the Additional Protocols.

305. As the Special Rapporteur felt that the situation in Iraq was such that his appeal alone might not suffice to safeguard the lives and security of countless numbers of innocent persons not taking part in the acts of violence, he also addressed, on 19 March 1991, a cable to the Secretary-General of the United Nations in which he referred to General Assembly decision 44/415 of 4 December 1989. That resolution invited States parties to disputes to resort to third-party assistance in the form of a commission of good offices, mediation or conciliation within the United Nations in order to settle their disputes by peaceful means. In that connection, the Special Rapporteur appealed to the Secretary-General to take any measures he might deem appropriate to lower the level of violence and the consequent loss of life.

306. On 18 March 1991 and again on 27 March 1991, the Special Rapporteur sent a cable to the Government of Iraq concerning the possible extrajudicial execution of thousands of persons, including persons who had not taken part in acts of violence, and the wounding of thousands of others during the course of the ongoing violence within Iraq. According to information, the following cities had suffered particularly as a result of the above-mentioned violence: Amarah, Basrah, Karbala, Najaf, Nasiriya and Samawah in the south; Akra, Mosul and Kirkuk in the north and in and around Baghdad. Heavy fighting continued in and refugees continued to flee from those areas. Thousands of persons not taking part in the acts of violence, including the disabled, women and children, had been killed. Countless others had been wounded. Refugees, particularly those who apparently, actively or passively, had supported the coalition forces had been the objects of extrajudicial executions. In addition to killings occasioned by ground attacks, deaths had been caused by shelling of civilian population centres by government forces.

307. In this connection, the Special Rapporteur referred the Government of Iraq to the fundamental principles set forth in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights which, at articles 3 and 6 respectively, provided that every individual had the right to life and security of the person, that this right should be protected by law and that no one should be arbitrarily deprived of his or her life. In addition, he recalled those minimum humanitarian standards which were applicable in all situations, including situations of internal violence, disturbances and tensions, and which could not be derogated from under any circumstances. The Special Rapporteur appealed to the Government to provide him with information concerning any measures undertaken to safeguard, to the greatest extent possible, the lives and physical integrity of all those affected by the above-mentioned violence.

308. On 4 April 1991, another cable was addressed to the Government of Iraq in which the Special Rapporteur referred to his communication of 27 March 1991, and expressed his deep concern at information according to which thousands of persons, including those who had not taken part in any acts of violence, had

been killed or wounded by government forces during the course of the ongoing violence within Iraq. According to information, during attacks on the cities of Najaf, Karbala, Samawa, Diwania, Nasiriah, Basrah, Amarah, Souq Es Shiokh, Masharrah and Milla, many persons not taking part in acts of violence, including women and children, reportedly had been killed both intentionally and indiscriminately by government forces. In Najaf and in Karbala alone, thousands of persons had been killed by ammunition fire from helicopters piloted by government forces. Many persons who had been arrested were said to have been extrajudicially executed by government forces. During the latest fighting, hundreds of thousands of Kurdish people fleeing regions which had been taken by government forces were reportedly being attacked by rocket-firing helicopter gunships, pursued by tanks and armoured vehicles and pounded by artillery fire. Many of those people had been killed. Most of the victims were those who had not taken part in any acts of violence, including women, children and the elderly.

309. On 9 April 1991, the Special Rapporteur sent another cable to the Government of Iraq concerning the killing of a number of people who had attempted to guard the house of the Grand Ayatollah Abul Qassem Al-Kho'i, and the detention, by President Saddam Hussein's forces, of the following persons during the course of the ongoing violence in Iraq: Sayyid Mohammad Reza Moubavi Al-Khalkhali, aged 63; Sayyid Ja'tar Bahrul Uloom, aged 56; Sayyid 'Izzaddin Bahrul Uloom, aged about 55; Sayyid Muhammad Taghi Al Kho'i, aged 32; Sayyid Muhyeddin Al-Ghuraif; Sayyid Muhammad Ridha Al-Kharsan; Sayyid Muhammad Al-Sabzwari; Sayyid Muhammad Ridha Al-Sa'idi; Sayyid Muhammad Saleh 'Abd Al-Rasul Al-Kharsan.

310. According to the information, the first four of the above-named persons, all aides to the Grand Ayatollah Abul Qassem Al-Kho'i, and 10 of his relatives, including his daughter, son, daughter-in-law and seven of his grandchildren, aged between 7 and 11, were taken into custody on 20 March 1991 by Iraqi government forces which had carried out an armed raid on the Grand Ayatollah's residence in the southern city of Najaf. It was believed that they had been imprisoned at an unknown place in Baghdad. Five other aides of the Grand Ayatollah, also named above, were reported missing and were thought to be in the custody of Iraqi government forces. It was reported that one person, Sayyid Al-Kharsan, had allegedly been killed by government forces. These acts were followed by the appearance of the Grand Ayatollah on Iraqi television where he appeared to criticize the Shiah uprising against the Government of President Hussein. The Grand Ayatollah, who was said to be 95 years of age and in poor health, appeared to be acting under duress.

311. In the cables of 4 and 9 April 1991, the Special Rapporteur once again called to the attention of the Government of Iraq the fundamental principles set forth in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights, and appealed to the Government to provide him with information concerning any measures undertaken to safeguard, to the greatest extent possible, the lives and physical integrity of those persons affected by the situation of ongoing violence in Iraq, including those referred to above.

Government replies

312. On 28 March 1991, a reply was received from the Government of Iraq in response to the Special Rapporteur's cable of 18 March 1991, stating that the responsibility for the allegations transmitted had to be borne by saboteurs and outlaws supported by foreign groups. It was also stated that attention should have been drawn to the members of the coalition engaged in the war, and to the rules and conventions which protect civilians, particularly children, in times of war.

313. On 19 April 1991, another reply was received from the Government of Iraq to the Special Rapporteur's urgent message dated 4 April 1991 stating that the allegations referred to in the Special Rapporteur's cable were based on information derived from various groups, and the States backing them, which had exploited Iraq's difficult circumstances following the foreign aggression in order to engage in acts of murder, pillage and destruction of civil and governmental institutions. The Iraqi authorities were fulfilling their duty to protect the security and property of Iraqi citizens, in accordance with the laws in force. The Iraqi authorities did not need to be reminded of their obligation to refrain from the use of prohibited weapons in armed conflicts; the Special Rapporteur's reference merely reiterated fallacious allegations which were propagated by well-known parties hostile to Iraq.

314. On 27 April 1991, another reply was received from the Government of Iraq to the Special Rapporteur's telegram of 9 April 1991 stating that the allegations contained in the cable concerning the detention of the ministers of religion named therein or their subjection to any form of torture or execution were totally unfounded. Ayatollah Al-Khosi had appeared on Iraqi television and had received journalists at his residence in Najaf entirely of his own free will in order to condemn the acts of sedition attributable to a small group of misguided persons who had engaged in all forms of murder, pillage and rape. The Special Rapporteur was urged to refrain from reiterating the allegations of criminals and those foreign States backing them. Iraqi forces had put an end to acts of sedition and the disturbances perpetrated by those outlaws, who had taken advantage of Iraq's difficult circumstances following the foreign aggression which had attempted to foment plots against the Iraqi people.

315. On 3 July 1991, another reply was received from the Government of Iraq, in response to the Special Rapporteur's cable of 4 April 1991, stating that the allegations transmitted were based on false rumours. The Iraqi authorities had not indiscriminately bombarded civilian residential areas and their inhabitants, but had been fulfilling their duty to protect the security and property of Iraqi citizens in accordance with the laws in force.

2. Other cases transmitted by the Special Rapporteur

316. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Iraq transmitting 273 cases of alleged summary or arbitrary executions. Widespread human rights violations were reported in Iraq following the withdrawal of Iraqi forces from Kuwait on 26 February 1991. Those violations were perpetrated in the aftermath of a mass uprising which began on 1 March 1991 in several cities in southern Iraq, and which spread to

the Kurdish regions of northern Iraq. Hundreds of people were reportedly arrested and tortured and mass extrajudicial killing of individuals suspected of having taken part in the uprising were carried out by Iraqi military, intelligence and security personnel. Civilians, including women and children, were also targeted.

317. It was reported that on 1 March 1991, Arab Shiah Muslim opponents in southern Iraq rose in revolt against the Government and briefly seized control of several major towns and cities, including Al-Najaf, Karbala and Basrah. Following fierce military clashes between government and opposition forces, by mid-March government forces had largely succeeded in crushing the uprising. Thousands of people suspected of having taken part in the uprising were reported to have been arrested after house-to-house searches, some of whom were subsequently summarily executed. The fate of others remains unknown.

318. Numerous reports of mass extrajudicial killings were received. Some concerned the summary execution of an estimated 150 to 170 men and boys on 16 March 1991 at Al-Mahawil garrison near the city of Al-Hilla. Over 70 unarmed civilians were reported to have been similarly executed in Al-Hilla on 19 March 1991. It was also reported that between 20 and 29 March 1991, Iraqi soldiers were said to have entered the town of Al-Samawa and summarily executed scores of people following house-to-house searches. Reportedly, bodies of some of those executed were allegedly tied to tanks by government forces and dragged through the streets of Al-Najaf and were left hanging from electricity pylons. According to information received, on 9 March 1991, Iraqi soldiers surrounded the Al-Hilla hospital and allegedly threw 60 to 70 people, including patients and doctors, out of the windows of the third floor; they were accused of having helped "saboteurs".

319. On 14 April 1991, 18 men had allegedly been killed and thrown into the river with their hands tied. It was reported that the 6th Army Division had carried out mass executions in Basrah province and had thrown bodies into the Tigris river. Reportedly, it was forbidden for anyone to remove bodies that were washed ashore. It was also reported that the bodies of 30 to 35 men were seen being pushed into the Shatt Al-Arab waters, blindfolded and with their hands tied and weights attached to their feet.

320. It was also reported that in mid-March 1991, shortly after the recapture of Al-Najaf by government forces, civilians in the city were ordered to leave their homes and to walk north towards Karbala. While on the Al-Najaf-Karbala road, Iraqi forces reportedly separated the men from the women and children, then summarily executed the men by firing squad. It was also reported that four bodies of men were seen in a clinic attached to Al-Jumhuri hospital, located between the Al-Sa'a and Al-Hussain districts of the city; the faces of the victims had allegedly been mutilated.

321. Reports were received in mid-April 1991 of the extrajudicial killing of several hundred civilians from the village of Qara Hanjir (east of Kirkuk). It was also reported that, on 3 April 1991, Iraqi forces in Sulaimaniya allegedly executed a number of people accused of collaborating with opponents of the Government. Among those killed were several doctors accused of

treating wounded Peshmerga fighters. Some 40 unarmed civilians in the village of Arbat, who were accused of collaborating with opponents of the Government, had allegedly been burnt to death by Iraqi forces.

322. According to reports received, between 1 and 8 April 1991, hundreds of Kurds, the majority of whom were civilians, were killed as a result of the indiscriminate bombardment of residential areas in towns, cities or while attempting to flee to Iran or Turkey. It was reported that by the first week of March 1991, Kurdish forces had taken control of Arbil, Sulaimaniya, Duhok, Zakho and neighbouring towns. The fiercest clashes between government and opposition forces were reported in the city of Kirkuk. Reportedly, as government forces began to recapture those towns and cities, there was a mass exodus of the Kurdish population. According to reports received, thousands of men from the city of Kirkuk were arrested in the second and third weeks of March by the Iraqi regular army, by security, intelligence and Ba'ath Party personnel, and by members of the Republican Guards. Most of those arrested were executed shortly thereafter.

323. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Iraq to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Government reply

324. On 18 December 1991, a letter was received from the Government of Iraq stating that the competent Iraqi authorities had no information on the persons mentioned in the letter of 8 November 1991. It should be pointed out in that respect that the period of unrest was accompanied by armed clashes between the authorities responsible for security and the elements involved in the unrest. Following the restoration of the State's authority in regard to law and order, some of the agitators concerned fled. It is not unlikely that some were killed during the clashes, as the competent authorities were unable to identify them all at the time and could not therefore investigate their whereabouts.

Israel

1. Appeals for urgent action

325. During 1991, no appeals for urgent action were sent by the Special Rapporteur.

2. Other cases transmitted by the Special Rapporteur

326. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Israel transmitting 57 cases of alleged summary or arbitrary executions. It was reported that a Palestinian had allegedly been killed after being imprisoned on 17 September 1990 at the Khiam detention centre by Israeli occupation forces in southern Lebanon. According to information received, on 2 December 1990, a young Palestinian was killed by a border police officer after stabbing passengers on a bus near Tel Aviv.

On 30 September 1990, a 54-year-old man was killed by border police who opened fire on a crowd after stones had been thrown at them. It was also reported that 70 people had allegedly been killed by Israeli armed forces in various circumstances. Some were killed during clashes with troops; others were shot by troops after ignoring warnings to stop; others were killed in the course of confrontations after curfew or when trying to escape arrest. During an incident which occurred on 8 October 1990 on the site of the Al-Aqsa mosque, 17 Palestinians were allegedly killed by Israeli police. Reportedly, firearms continued to be used as a common means of riot control under official guidelines which appeared to be inconsistent with the internationally recognized principles of necessity and proportionality in the use of force.

327. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Israel to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Jamaica

1. Appeals for urgent action

328. On 1 March 1991, the Special Rapporteur sent a cable to the Government of Jamaica concerning warrants issued for the execution of Earl Pratt and Ivan Morgan on 7 March 1991. It had come to his attention that, by its decision of 6 April 1989, the Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, was of the view that the facts as found in communication N. 210/1986 and 225/1987 concerning Messrs. Pratt and Morgan, disclosed violations of the Covenant with respect to articles 6, 7 and article 14. Accordingly, the Committee was of the view that the persons concerned were entitled to a remedy, namely the commutation of their sentence (see document A/44/40, annex X F). In view of this decision, the Special Rapporteur appealed to the Government to commute the death sentences of Messrs. Pratt and Morgan.

329. At the time of preparation of the present report, no reply had been received from the Government of Jamaica.

Jordan

1. Appeals for urgent action

330. On 5 August 1991, the Special Rapporteur sent a cable to the Government of Jordan concerning the following five persons who had been sentenced to death and who faced imminent execution: Abdullah Yusuf Abd Al-Muhsen Mansur, Qasi Subhi Abd al-Rahman Abu Salem, Majed Hasan Dawud Al-Saifi, Muhammed Hasan Dawud Al-Saifi and Darar Mustafa Dawud Al-Saifi. According to the information, these persons were arrested in October 1989 and were still in prison. Mr. Darar Mustafa Dawud Al-Saifi was tried *in absentia*. It was alleged that international minimum standards for a fair trial had not been met during the pre-trial period and during the proceedings themselves, and that the defendants did not have the right to appeal to a higher tribunal. It was also reported that Messrs. Abd Al-Muhsen Mansur, Abd Al-Rahman Abu Salem,

Majed Hasan Dawud Al-Saifi and Muhammed Hasan Dawud Al-Saifi had been tortured during interrogation by the General Intelligence Department to extract confessions, which were subsequently used as evidence against the defendants during their trials. The accused were charged with belonging to an illegal Palestinian organization, possession and use of explosives for illegal purposes, and possession for illegal purposes of automatic weapons. The defendants were convicted in March 1991 by the Martial Law Court and sentenced to death.

331. In that connection, the Special Rapporteur recalled to the Government of Jordan the fundamental principles embodied in the Universal Declaration of Human Rights and reiterated in the International Covenant on Civil and Political Rights and in the Declaration and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. He also referred to article 14 of the International Covenant on Civil and Political Rights and to the Safeguards guaranteeing the protection of the rights of those facing the death penalty, approved by the Economic and Social Council by its resolution 1984/50 of 25 May 1984, as well as to its resolution 1989/64 of 24 May 1989, by which the Council approved the implementation of those Safeguards. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons and requested information on those measures as well as on the investigation carried out by the authorities in those cases.

2. Other cases transmitted by the Special Rapporteur

332. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Jordan transmitting allegations concerning two people, a farmer and a pilot of the Jordanian Air Force, who were allegedly executed on 3 February 1991 (location unknown) following trials before martial law courts, which were said to have failed to meet the minimum international fair trial standards, in which they reportedly were convicted of treason for spying. According to the information received, in Jordan, article 19 of the Martial Law Directive expressly excludes the possibility of appeal to any tribunal, including the High Court of Justice, against convictions or sentences passed by a martial law court.

333. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Jordan to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Government reply

334. On 17 December 1991, a reply was received from the Government of Jordan to the Special Rapporteur's letter of 8 November 1991 stating that Ali Abdul Hafidh and Ahmad Muhammad Ahmad were caught in flagrante delicto while committing high treason. After being confronted with the evidence, they made a voluntary confession and were sent for trial. They were defended by lawyers in court in accordance with judicial procedure. On the basis of their confession before the court, in the light of the conclusive evidence submitted by the prosecution and in view of their defence counsel's inability to refute

the charges brought against them, the competent court found them guilty and sentenced them to death in accordance with the law. The death sentences were confirmed after all the requisite legal formalities had been completed. The sentences of death by hanging were carried out in the presence of a forensic physician, a minister of religion and those persons whose attendance was required by law.

Kuwait

1. Appeals for urgent action

335. On 21 June 1991, the Special Rapporteur sent an urgent message to the Government of Kuwait concerning the following persons who had been sentenced to death by Martial Law Courts: Mankhi Jaber Al-Shammari, aged 23, "bidoun" (stateless Arab); Fatima Ramez Tafla Tapla, aged 26, Lebanese; Farhan Hajid Khalaf, "bidoun"; Ahmad Fadi Al-Hussaini, Lebanese, former chief editor of the Kuwaiti newspaper Al-Qabas; Ibtisam Berto Sulaiman Al-Dakhil, aged 35, former journalist with Al-Qabas; Suhail Abdallah Hussain, aged 24, Jordanian, former employee of Al-Qabas; 'Abd Al-Rahman Muhammad As'ad Al-Hussaini, aged 39, Jordanian, former editor with the Kuwaiti News Agency KUNA; Ahmad 'Abd Mustafa, aged 39, Jordanian, former producer for Kuwaiti television; Hassan Dawud Sulaiman (full name and details not known); Huhsin Hadi (full name and details not known); Yusuf Hustafa (full name and details not known); Hamda As'ad Yunis, aged 55, Jordanian. According to the information, the death sentences were handed down between 8 and 20 June 1991. Five of the defendants were charged, tried and sentenced in absentia. All were charged with collaboration with Iraqi authorities during the seven-month occupation of Kuwait.

336. It was alleged that international standards for a fair trial were not met during the pre-trial period or during the hearings themselves, and that the defendants did not have the right to appeal to a higher tribunal. In addition, the defendants did not have adequate time or facilities to prepare a defence and some of the judges failed to devote adequate time to the proceedings. The defendants did not have access to lawyers until they appeared before the judges, although the right to defence during the prosecution investigatory phase, is guaranteed under Kuwaiti law; moreover, the defendants were not informed of this right.

337. It was also reported that much of the evidence used against certain of the defendants (Ahmad Fadi Al-Hussaini, Ibtisam Berto Sulaiman Al-Dakhil, Suhail Abdallah Hussain, Abd Al-Rahman Muhammad As'ad Al-Hussaini, and Hamda As'ad Yunis) was in the form of hearsay testimony taken by the prosecution investigator, reporting on the testimony of secret witnesses. In these cases, the prosecution also used documentary evidence which was not shown to the defendants. During the trial, the judges did not inform the defendants before their questioning of their right to remain silent, as reportedly required under Kuwaiti law. Once tried and convicted by the Martial Law Court defendants have no right of appeal to a higher tribunal, as required by international standards. Finally, information was received that some of the defendants had been tortured while in detention. It was feared that this

might have had an impact upon the defendants' right not to be compelled to confess guilt. Moreover, defendants did not have access to independent doctors while in detention.

338. In that connection, the Special Rapporteur recalled to the Government of Kuwait the fundamental principles embodied in the Universal Declaration of Human Rights and reiterated in the International Covenant on Civil and Political Rights and in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. He also referred to the Declaration on the Protection of all Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and particularly to article 6 thereof, and to the Standard Minimum Rules for the Treatment of Prisoners. Finally, he referred to paragraphs 4, 5 and 6 of the Safeguards guaranteeing the protection of the rights of those facing the death penalty approved by the Economic and Social Council by its resolution 1984/50 of 25 May 1984. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons and requested information on those measures as well as on the investigation carried out by the authorities in those cases.

Government replies

339. On 23 January 1991, a reply was received from the Government of Kuwait in response to the Special Rapporteur's communication of 22 January 1991, stating that the Government would comply fully with the 1949 Geneva Conventions and the Additional Protocols thereto.

340. On 26 June 1991, the Under-Secretary-General for Human Rights received a telephone communication from the Permanent Representative of Kuwait to the United Nations Office at Geneva, in reply to urgent appeals made by the Special Rapporteur on summary and arbitrary executions on 22 and 25 June 1991 concerning the alleged death sentences, by Kuwaiti military courts, of persons charged with having collaborated with the Iraqi authorities during the seven-month occupation of Kuwait. The Under-Secretary-General was informed that the Emir of Kuwait had decided to commute the sentences to life imprisonment.

2. Other cases transmitted by the Special Rapporteur

341. On 18 November 1991, the Special Rapporteur sent a letter to the Government of Kuwait transmitting information he had received concerning alleged summary executions and deaths in custody as a result of torture of Kurds and Palestinians holding Jordanian passports in the aftermath of the Gulf War. The information received concerned the death of five people between March and May 1991 who were arrested by Kuwaiti security forces, allegedly on charges of having collaborated with the Iraqi occupation forces. One of the victims reportedly died in Al-Addam hospital in early April 1991; his body was said to have shown marks of torture. The others were reported to have died in custody, allegedly as a result of torture or extrajudicial execution.

342. In the same letter, the Special Rapporteur also transmitted to the Government of Kuwait information he had received concerning two allegations of

threats of execution and torture, allegedly issued by members of the Kuwaiti military and the Kuwaiti police. In particular, the Special Rapporteur had been informed of the following incidents:

(a) In March or April 1991, a Kurd was reportedly stopped at a checkpoint by three Kuwaitis in military uniforms and taken to a police station. There, he was allegedly beaten and threatened with execution. Upon his release, he was said to have reported the incident to the police who refused to investigate, but instead sent him to the Mubara Al-Kaber hospital where a doctor examined him and provided him with a report;

(b) On 4 April 1991, a Palestinian doctor was reportedly shot in the head, neck and chest by a policeman at a checkpoint in Hawalli;

343. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Kuwait to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

3. Other information received by the Special Rapporteur

344. On 4 April 1991, a communication was received by the Special Rapporteur concerning a systematic campaign of killing, imprisonment and torture of Palestinians in Kuwait, after the departure of the Iraqi forces and prior to the return of the Kuwaiti authorities to the country. According to the information, on 11 March 1991, mopping-up and pursuit actions were carried out from house to house against Palestinians in the districts of Hawalli, Al-Nugra and Al-Salmiyyeh. Hundreds of Palestinians were arrested and transferred to unknown locations. On 19 March 1991, Mr. Salah Abdel Rahim (aged 19) alleged that he had been tortured at the hands of Kuwaiti armed elements at Al-Areidiyeh school, while Mr. Mahmoud Hussein (aged 21) alleged that he had been subjected to beatings with electrified batons, at the hands of Kuwaiti armed elements in Al-Jahraa' school.

Lesotho

1. Appeals for urgent action

345. During 1991, no appeals for urgent action were sent by the Special Rapporteur.

2. Other cases transmitted by the Special Rapporteur

346. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Lesotho transmitting information received concerning the alleged execution of 34 people during a racial protest directed against Indians and Taiwanese that had erupted in the capital, Maseru, in May 1991. Reportedly, the protest started after an incident between a black woman and a Taiwanese businessman. Government forces were said to have intervened and opened fire on the unarmed black demonstrators, killing 34 people and injuring 66 others.

347. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Lesotho to provide him with information on the above-mentioned incident and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Madagascar

1. Appeals for urgent action

348. On 12 August 1991, the Special Rapporteur sent a letter to the Malagasy Government transmitting allegations that, on 10 August 1991, unarmed civilian demonstrators gathered in the capital, Antananarivo, to protest against various government policies. Soldiers of the Presidential Guard used excessive force in dispersing the crowd and thus caused at least 18 deaths.

349. On 14 November 1991, the Special Rapporteur sent a cable to the Malagasy Government transmitting allegations that, on 23 October 1991, 12 persons, including Jean Barton Ramitasoa, aged 22, and Aly Aden Ouarssan, were killed and at least 70 people were wounded by security forces in Antsiranana. According to the information, members of Hery Velona (People's Committee), an opposition alliance, gathered in Antsiranana to organize a protest march next day. Members of the armed forces threw tear-gas grenades and opened fire on the demonstrators as they were approaching the Governor's residence. The soldiers are said to have used excessive force against peaceful demonstrators, causing 12 deaths.

350. The Special Rapporteur also expressed concern about the incidents on 10 August 1991, in which the Presidential Guard reportedly killed at least 30 demonstrators and injured at least 200 more, and about the fact that no investigation had taken place, according to the information received.

351. In these two communications to the Malagasy Government, the Special Rapporteur referred to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council in resolution 1989/64 of 24 May 1989, to the principles set out in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. He also alluded to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and particularly paragraphs 4, 5, 9 and 10, which are based on the fundamental principle that the amount of force used should be in proportion to the objective to be achieved. The Special Rapporteur also appealed to the Government of Madagascar to take all measures at its disposal to protect the lives and physical integrity of unarmed civilian demonstrators, requested information on these measures as well as on the investigations carried out by the competent authorities in those cases.

352. At the time of preparation of the present report, no reply had been received from the Government of Madagascar.

Malaysia

1. Appeals for urgent action

353. On 17 May 1991, the Special Rapporteur sent a cable to the Government of Malaysia concerning the alleged imminent forced repatriation of 109 asylum-seekers from Aceh. According to information, the asylum-seekers fled to Malaysia by boat between 15 March and 7 April 1991 from the Aceh region of the Indonesian island of Sumatra. It was alleged that since 1989, in the course of attempting to suppress a separatist movement in Aceh, Indonesia armed forces had committed widespread human rights abuses. During the past 18 months, more than 2,000 unarmed civilians were said to have been killed by government security forces in that area. In addition, it was alleged that hundreds of suspected rebel supporters had been imprisoned without charge or trial, and that many of them had been tortured or ill-treated while in custody.

354. In this connection, the Special Rapporteur referred to articles 3, 7 and 14 of the Universal Declaration of Human Rights and to the fundamental principle of non-refoulement to be applied to all asylum-seekers. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons and in addition requested information on those measures as well as on the investigation carried out by the authorities in those cases.

355. On 5 August 1991, the Special Rapporteur sent a cable to the Government of Malaysia concerning the following persons who had been sentenced to death: Atari Paweel (Filipino), Radja Sappayani (Filipino), Mario Eppa (Filipino), Jul Alih (Filipino), Abdul Rizal Cesar (Filipino), Hassim Hj Escandar (Filipino), Antoni Julkani (Filipino), Khairulla Khan (Pakistani), Shorin Khan (Pakistani), Kullah Lawari (Filipino), Edjing Abdullah (Filipino), Antoni Najali (Filipino), Assidin Itting (Filipino), Rudi Jamjali (Filipino) and Talib Sahijuan (Filipino). According to the information, the above-listed persons were convicted of committing drug offenses in the State of Sabah. Messrs Paweel, Sappayani, Eppa, Alih and Rizal Cesar were awaiting an appeal for clemency to the Head of State of Sabah. Messrs. Escandar, Julkani, Khairulla Khan, Shorin Khan, Lawari, Abdullah, Najali, Itting, Jamjali and Sahijuan had appealed for a fresh hearing in the Supreme Court. Under a 1983 amendment to the Dangerous Drugs Act of 1952, the death penalty was mandatory for those convicted of drug-trafficking in Malaysia. It was alleged that minimum international standards for a fair trial had not been met in the pre-trial phase or during the proceedings. Reportedly, the persons concerned had been tortured in detention and had been forced to sign statements written in Malay, which they were unable to read or understand.

356. In that connection, the Special Rapporteur referred to the fundamental principles embodied in the Universal Declaration of Human Rights and reiterated in the International Covenant on Civil and Political Rights and in the Declaration and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In addition, he referred to the Standard Minimum Rules for the Treatment of Prisoners, and to the Safeguards guaranteeing the protection of the rights of those facing the death penalty,

approved by the Economic and Social Council by its resolution 1984/50 of 25 May 1984, as well as to Economic and Social Council resolution 1989/64 of 24 May 1989, implementing those Safeguards. The Special Rapporteur appealed to the Government of Malaysia to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons and in addition requested information on those measures as well as on the investigation carried out by the authorities in those cases.

357. At the time of preparation of the present report, no reply had been received from the Government of Malaysia.

Mali

1. Appeal for urgent action

358. On 25 March 1991, the Special Rapporteur sent a cable to the Government of Mali about clashes between unarmed demonstrators and the police or security forces in Bamako on 22 and 23 March 1991, in which at least 150 people were reported to have been killed and others were said to have been wounded. According to the information received, the unarmed civilian demonstrators gathered in the capital, Bamako, to protest against various government policies. The police or security forces used excessive force against the crowd, causing at least 12 deaths. On 23 and 24 March 1991, the demonstrators gathered once more, partly in response to the violent repression the day before; excessive force was used yet again against the crowd, producing a large number of victims: 150 after the two days. Moreover, many protesters are said to have been wounded.

359. In this connection, the Special Rapporteur referred to article 3 of the Universal Declaration of Human Rights and article 6 of the International Covenant on Civil and Political Rights. He also drew the Government's attention to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and particularly paragraphs 4, 5, 9 and 10, which are based on the fundamental principle that the amount of force used should be in proportion to the objective to be achieved.

360. At the time of preparation of the present report, no reply had been received from the Government of Mali.

2. Other cases transmitted by the Special Rapporteur

361. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Mali transmitting information he had received concerning the alleged extrajudicial execution of at least 90 members of the Tuareg and Moorish ethnic groups by the Armed Forces in northern Mali. Those killings, which were said to have occurred on 12 May 1991 and 21 June 1991, took place despite the January 1991 Tamanarasset peace agreement between the Malian Armed Forces and a separatist group in northern Mali. In another incident on 20 May 1991, 35 prisoners of the Tuareg and Moorish ethnic groups were allegedly executed at Léré prison.

362. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Mali to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Mauritania

1. Appeal for urgent action

363. During 1991, no appeal for urgent action was sent by the Special Rapporteur.

Government reply

364. On 16 January 1991, the Government of Mauritania answered the Special Rapporteur's letter of 6 November 1990 (see E/CN.4/1991/36, paras. 306-307) and said that Mauritanian law guaranteed the right to life and that the State afforded protection and safety for all citizens, without any distinction; judicial bodies were accessible to all citizens in accordance with their rights and all cases brought before them were elucidated and examined within a reasonable period and no one could escape punishment under the law once he was found guilty. Nevertheless, for more than a year special circumstances had prevailed in the southern part of the country and Mauritania was not responsible for them.

2. Other cases transmitted by the Special Rapporteur

365. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Mauritania transmitting information he had received according to which more than one hundred members of the Hal-Pulaar ethnic group had allegedly been executed without trials, or had "disappeared" after being arrested by members of the Security Forces of the country in early 1990. In the same letter, information concerning other incidents of extrajudicial executions were transmitted to the Government. One concerned 33 soldiers who were reportedly executed without any trial while detained in Inoj Prison on 27 November 1990. The other concerned 60 soldiers who had allegedly died as a result of torture in the army quarters of Aleg and Akjoujt in late 1990.

366. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Mauritania to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Mexico

1. Appeal for urgent action

367. During 1991, no appeals for urgent actions were sent by the Special Rapporteur.

2. Other cases transmitted by the Special Rapporteur

368. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Mexico transmitting information he had received on a number of incidents.

(a) On 19 October 1989, one man was reportedly arrested by agents of the Federal Judicial Police during an anti-narcotics campaign directed at a community of 3,000 people in the poppy-growing region of San Francisco de la Joya, Chihuahua. After taking him to a hotel room rented by them, the police officers allegedly tortured and killed him;

(b) On 5 March 1990, another man was reported to have died after having been detained by the military in connection with an investigation into the sale of drugs;

(c) On 6 March 1990, a member of the Revolutionary Democratic Party (Partido Democrático Revolucionario - PDR) was reportedly killed by police officers. Together with about 50 others, he had occupied the municipal offices of Ometepec, Guerrero, in order to protest against electoral fraud. Allegedly, the police surrounded the building and, after throwing tear-gas grenades, opened fire on the protesters;

(d) On 23 April 1991, an activist of the Frente Democrático Oriental de México Emiliano Zapata (FDOMEZ), an indigenous organization representing 200,000 Nahua and Huasteco indigenous people living in the States of Veracruz and Hidalgo, was killed, allegedly by members of the Armed Forces and related paramilitary groups;

(e) On 10 March 1990, the director of a weekly magazine in Tula, State of Hidalgo, was killed, allegedly by members of the anti-riot police who were said to have set up a road-block for the purpose of extortion.

369. According to the information received, in the cases referred to under (a) to (c) above judicial investigations and procedures concerning those responsible had not been carried out. The same allegation was made with regard to the case of a Mexican lawyer and three teachers from Venezuela, reportedly abducted on 22 February 1990 in the town of Culiacán and later killed by agents of the Federal Judicial Police. It was reported to the Special Rapporteur that no progress had been made in the investigation into those killings.

370. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Mexico to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Government replies

371. On 23 January 1991, a reply was received from the Government of Mexico in response to the Special Rapporteur's letter of 9 November 1990, concerning numerous allegations of executions. Further information was given concerning the following persons:

(a) Agustín Pérez Contreras (see document E/CN.4/1991/36, para. 315 (c) (ii)): the National Commission on Human Rights (CNDH) had noted discrepancies between the death certificate issued by the representative of the Federal Prosecutor's Office, the coroners' report and the report delivered by the Chief of the Judicial Police when he handed over the body of Mr. Pérez Contreras to the Judicial Police. Futhermore, the Commission recommended to the Attorney-General of the Republic that an investigation be carried out into the responsibility of members of the Federal Police in the death of Mr. Pérez Contreras, and the action of the representative of the Prosecutor's Office in the investigation of the events of 5, 6, and 7 May 1990 in the town of Aquilille, Michoacán;

(b) Adelaida Barrera Sánchez, Ismael Reyes de la Cruz and Antonio Pablo Terrero (see para. 315 (b) (ii)): the investigation conducted by the Office of the Attorney-General of the State of Guerrero led to the identification of the persons responsible for the death of the above-mentioned persons and established that they had resulted from quarrels. On 12 February 1990, a detention order had been issued in respect of the perpetrators who had been held since 8 February 1990 at the disposal of the Judge of First Instance in both civil and criminal cases in the Judicial District of Guerrero;

(c) Santos Hernández García (see para. 315 (b) (v)) and Florentino Salmerón (see para. 315(b) (vi)): the two men died in a clash between the police and a group of marchers belonging to the PRD at kilometre 227 on the Zihuatanejo national highway, as a result of the group's determination to take over illegally the international airport in that town. This constituted an offence against security, law and order, and the normal functioning of means of transport, and had been prevented by members of the police. In connection with this incident, an investigation had been carried out and, after the ballistics test, it had been concluded that the impact of the shot which killed Mr. Salmerón García did not match the calibre of firearms used by the police.

372. On 9 April 1991, another reply was received from the Government of Mexico further to its communication of 23 January 1991. Reference was made to the following cases:

(a) José Antonio Simón Zamora (see para. 315 (a) (iii)): the competent authority had carried out a preliminary investigation and two alleged perpetrators of this crime were now in custody. A number of formalities still had to be completed to enable the judge to conclude the investigation;

(b) Erick Dante Quijano Santoyo, Jaime Mauro Quijano Santoyo and Héctor Ignacio Quijano Santoyo (see para. 315(c) (i)): on 23 January 1991, the National Commission on Human Rights addressed the following recommendations to Enrique Alvarez del Castillo, Attorney-General of the Republic:

(i) In investigating the events which occurred on 14 January 1990 in front of No. 1, Paseo de la Escondida, Fraccionamiento Hacienda Ojo de Agua, Municipality of de Tecamac, Federal District, and in which Erick Dante Quijano Santoyo, Jaime Mauro Quijano Santoyo and Héctor Ignacio Quijano Santoyo had lost their lives, the Office of the Attorney-General of the Republic, making full use of all available, legal and human resources, should open a preliminary inquiry to establish the actual circumstances in which those events had taken place; that the inquiry should examine the conduct of the following officers of the Federal Judicial Police: Manuel Ramón Olivos Madrid, assigned Head of Group; Roberto Alejandro Velázquez Quiroz, Head of Group P-3935; Héctor Arturo Rojas Díaz, Second-in-Command of Group P-3112; Arturo Vanegas Mendoza; Carlos J. Dávila Cano; the Chief of Police, Fernando Ventura; members of the so-called "Tiburón" group; and all those not included in this list who may have taken part in this operation, and who may have committed homicide, torture and unlawful deprivation of freedom;

(ii) While the recommended investigation is in progress, the Chiefs of Police, Heads of Group and Officers listed above should be suspended from duty;

(iii) If the investigation were to establish that these public servants were responsible for one or more wrongful acts, criminal proceedings should be taken against them;

(c) Paulino Martínez Delia and Bonifacio Merino Delia (see para. 315 (a) (i)), Manuel Velazco Ortega (see para. 315 (a) (ii)), Santiago Merino Hernández (see para. 315 (a) (iv)) and Juan Domingo Pérez Castillo (see para. 315(a) (v)): the National Commission on Human Rights had requested from the Attorney-General's Office of the State of Oaxaca information about the progress of the investigations concerned.

373. On 9 October 1991, a communication was received from the Government of Mexico in response to the Special Rapporteur's letter of 11 July 1990 transmitting the text of a speech made on 26 September 1991 by the President of the National Commission of Human Rights (CNDH), Jorge Carpizo, concerning the murder of Norma Corona Sapiéns (see para. 310 (a)). According to the investigation undertaken, the CNDH considered the evidence strong enough to begin criminal proceedings against the former Director of the Federal Judicial Police, Mario Alberto González Treviño, and a number of officers in his service.

3. Additional information received by the Special Rapporteur

374. The Special Rapporteur received information from several non-governmental sources concerning the extensive use of violence by members of the Federal Judicial Police, especially its anti-narcotics trafficking division, and the Armed Forces. The Special Rapporteur has also been informed of widespread use of violence by the State Police Forces in several States of the country. In particular, it was alleged that repression against indigenous communities had increased over the last five years in the context of land disputes. Death threats and other acts of intimidation directed against journalists were also reported to have been widespread.

375. The Special Rapporteur also received information about the inauguration of the National Human Rights Commission by the Mexican President, Carlos Salinas de Gortari, in June 1990. The Special Rapporteur noted with satisfaction that this Commission had taken up its work with great commitment, undertaking investigations into several cases of human rights abuses and making public their results.

Morocco

1. Appeal for urgent action

376. During 1991, no appeal for urgent action was sent by the Special Rapporteur.

Government reply

377. On 1 February 1991, the Government of Morocco, in reply to the Special Rapporteur's communication of 9 November 1990 (see E/CN.4/1991/36, para. 330), referred to allegations that 24 prisoners among the officers and non-commission officers involved in attempts on the life of the King in 1971 and 1972 had died. According to the communication, despite the extreme seriousness of such acts, which were punishable by death under Moroccan law, these military personnel were tried and sentenced to terms of imprisonment and not executed. No execution had taken place in Morocco since 1982, as stated in Morocco's second periodic report, submitted to the Centre for Human Rights (CCPR/C/42/Add.10) and considered on 7 and 8 November 1990. The cases mentioned in the allegations were transmitted to the Advisory Council on Human Rights, which was to examine them in the light of an inquiry conducted with the competent military authorities. The follow-up to the Advisory Council's recommendations to the King would be communicated to the Special Rapporteur on completion of the work of the meeting of March 1991.

2. Other cases transmitted by the Special Rapporteur

378. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Morocco transmitting information he had received about incidents of alleged summary and arbitrary executions as a result of torture during periods of detention in custody (garde à vue) at different Moroccan police stations. In March 1989, one man had died, reportedly as a consequence of torture, while detained at the police station of Ouarzazate. On 10 August 1989, in Larache, Province of Tanger, one person had died at the

local police station, allegedly after torture. Members of the police were said to have been responsible for both cases. According to the information received, no official inquiries had been carried out. On 20 March 1991, in Tetuan Civil Prison, one political prisoner was said to have died in custody. Allegedly, Government authorities were responsible for his death. On 18 April 1991, one student had reportedly died and ten others were wounded when members of the Security Forces entered the Medical Faculty of the Hassan II University in Casablanca to break up a student demonstration for better working conditions at the university.

379. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Morocco to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Government reply

380. On 18 December 1991, the Government of Morocco, replying to the Special Rapporteur's letter of 8 November 1991, transmitted information on the following three cases:

(a) Abdeljalil Yakouti: He used his shirt to hang himself at the police station in Ouarzazate. A preliminary investigation was initiated with the Ouarzazate examining magistrate;

(b) Abdeslam Ouahabi: He hanged himself at the police station in Larache. He had tied a piece of material to the electric wiring along the ceiling of his cell and killed himself by putting it around his neck;

(c) Larbi Charrat: He hanged himself. A preliminary investigation was initiated with the Kenitra examining magistrate.

The Moroccan reply also spoke of the conditions in prisons in Morocco, describing in detail the efforts by the Prison Administration to make significant improvements in conditions.

Myanmar

1. Appeals for urgent action

381. On 25 April 1991, the Special Rapporteur sent a cable to the Government of Myanmar concerning a death sentence passed on 3 April 1991 by a military tribunal on Soe Lwin alias Maung Soe, aged 21, and Win Naing alias Na Kok, aged 23, after they were found guilty of the murder of seven persons, including a police warrant officer, on 10 August 1988. According to the information, the trials of these two persons were held under martial law orders 1/89 and 2/89 which allegedly permitted military tribunals to conduct trials without the safeguards stipulated in article 14 of the International Covenant on Civil and Political Rights.

382. In that connection, the Special Rapporteur referred to the letter addressed to him on 13 December 1989 by the Permanent Representative of

Myanmar to the United Nations Office at Geneva affirming, inter alia, that in Myanmar no death sentence had been carried out in the past several years (except in the case of a foreign national responsible for a bomb explosion in Yangon in 1983). He also referred to the annex to Economic and Social Council resolution 1984/50 of 25 May 1984 entitled "Safeguards guaranteeing protection of the rights of those facing the death penalty" and to article 14 of the International Covenant on Civil and Political Rights. He also referred to paragraph 4 of the Principles Relating to the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions adopted by the Economic and Social Council in resolution 1989/65 of 24 May 1989, to the principles embodied in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons and requested information on those measures as well as on the investigation carried out by the authorities in those cases.

Government reply

383. On 28 March 1991, a reply was received from the Government of Myanmar to the Special Rapporteur's letter of 6 November 1990 (see E/CN.4/1991/36, para. 332) concerning incidents in Mandalay in August 1990. It stated that the allegations had emanated from unsubstantiated reports based on distorted and incorrect information on the developments in Myanmar. What actually transpired in Mandalay in August 1990 was the following: Since 1 August 1990, there had been intrigues and attempts by anti-government disruptive elements to observe the second anniversary of the so-called "four-eights day" which fell on 8 August 1990. Those elements carried out a variety of subversive activities in order to create disturbances and spread false rumours to the effect that, following student unrest in some high schools security forces had opened fire on the students, resulting in the death of two boys and one girl and that two monks had been bayoneted to death.

384. The series of events that had given rise to these rumours began on 3 August 1990 when some students of No. 13 high school in Mandalay shouted political slogans. One student by the name of Ngwe Soe, furious with other students who declined to take part in this activity, broke a glass window and injured himself. He, however, maliciously spread rumours to the effect that he had been attacked by the security forces and had obtained his injuries from a bayonet. In the ensuing scuffle between some parents taking their children home and certain monks, a novice, Shin Eindaw Bhasa, was injured in the head. He was promptly and properly treated at the monks' ward of the People's Hospital.

385. The Government noted that utmost care had been taken by the security forces to avoid use of force to the extent possible. As was always the strictly observed rule in controlling riots and mobs in Myanmar, the use of force was resorted to only when absolutely necessary and only to the extent commensurate with the requirement. Nevertheless, foreign news agencies and broadcasting stations, having hostile attitude towards the Government of Myanmar, transmitted distorted reports about the incidents, and it was regretted that those unfounded reports somehow found their way to the Special Rapporteur.

2. Other cases transmitted by the Special Rapporteur

386. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Myanmar transmitting information he had received concerning the following incidents:

(a) Five people were reportedly sentenced to death by a military tribunal sitting at Yangon Military Headquarters on 6 March 1991. The proceedings were said to have been summary and allegedly failed to meet minimum international standards for a fair trial;

(b) On 9 November 1990, a senior member of the National League for Democracy (NLD) died in a military detention centre north of Yangon. It was alleged that the prisoner had died as a result of torture;

(c) Six prisoners in Insein Prison in Yangon were allegedly extrajudicially executed on 18 September 1990. It was reported to the Special Rapporteur that a number of political prisoners at the prison had gone on hunger strike in order to protest, among other things, poor prison conditions, torture and ill-treatment. During the suppression of the hunger strike, the prisoners were reportedly beaten. Six of them allegedly died and over 40 were hospitalized.

387. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Myanmar to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Nicaragua

1. Appeal for urgent action

388. On 3 June 1991, the Special Rapporteur sent a cable to the Government of Nicaragua in connection with Raymond Genie Pemalba, who had reportedly received death threats. Mr. Genie Pemalba's son, Jean-Paul Genie, was, according to complaints laid, killed by paramilitary or government gunmen on 28 October 1990 on the road from Managua to Masaya. Since then, Mr. Genie Pemalba has made active efforts to have the case investigated properly and the people responsible brought before the courts. For some days after the killing, Mr. Genie Pemalba received a number of anonymous telephone calls voicing threats to kill him and his family. According to the information, on the night of 24 January 1991 someone he did not know approached Mr. Genie Pemalba claiming to be a former member of the Sandanista army and asking him to read a note containing details of a plan to assassinate Humberto Ortega. He also asked Mr. Genie Pemalba to collaborate. Mr. Genie Pemalba's reply was in the negative and he said that the only thing he wanted in connection with his son's death was justice under the law. The individual none the less suggested that, if Mr. Genie Pemalba changed his mind, he should meet him that night at the place where his son had died. Mr. Genie Pemalba did not go. As a result of these incidents, Mr. Genie Pemalba, fearing for his life and physical integrity, got in contact with the Special Rapporteur asking him to take the appropriate steps.

389. In this connection, the Special Rapporteur referred to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council in resolution 1989/65 of 24 May 1989, to the principles set out in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. In addition, since the person in question regularly cooperated in United Nations procedures for the protection of human rights, the Special Rapporteur also referred to Commission on Human Rights resolution 1991/70 of 6 March 1991, which urged Governments to refrain from all acts of intimidation or reprisal against private individuals and groups who seek to cooperate with the United Nations and representatives of its human rights bodies. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned person. In addition, he requested information on those measures, as well as on the investigations by the authorities into these cases.

Government reply

390. On 7 August 1991, a reply was received from the Government of Nicaragua in response to the Special Rapporteur's cable of 3 June 1991, stating that no complaint from Mr. Genie Pemalba concerning threats against his life and physical integrity or those of his family had been received at either police headquarters or at the Ministry of the Interior. It was further stated that the Ministry of the Interior had been prepared to provide Mr. Genie Pemalba and his family with the necessary protection in the event that the above-mentioned threats proved to be real.

2. Other cases transmitted by the Special Rapporteur

391. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Nicaragua transmitting information he had received concerning the alleged summary or arbitrary execution of 59 persons. During two incidents at Nueva Guinea, Yolaina, in November 1990, seven peasants were killed and 24 others wounded during non-violent demonstrations in favour of a dismissed rural police chief and social and economic benefits, reportedly by members of the "Pedro Altamirano" Army Batallion in cooperation with national and local police forces. The other allegations transmitted to the Government of Nicaragua concerned the killing of 17 persons during the second half of 1990. The victims were reported to be former combatants of the Nicaraguan Resistance (Resistencia Nicaragüense - RN), an armed group which had militarily opposed the Sandinista Government. Members of the police and the army, together with armed civilian Sandinistas, were said to have carried out these killings. One death was reported to have taken place in the context of violent disputes over land distribution which allegedly occurred towards the end of 1990, when former "contra" members complained about delays in being provided with land.

392. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Nicaragua to provide him with information on the above-mentioned case and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Government reply

393. On 27 December 1991, a reply was received from the Government of Nicaragua to the Special Rapporteur's note of 8 November 1981, transmitting information on the following specific cases:

(a) The Yolaina case. People demobilized from the former Frente Sur de la Resistencia Nicaragüense (Southern Front of the Nicaraguan Resistance), together with civilian returnees and inhabitants of Yolaina and some adjoining districts, gathered for a march to Nueva Guinea. The purpose was to protest against the disarming of the rural police assigned to the area, in response to the notorious lack of discipline of the chief of the local force, Mr. Erwin Barberena Morales. The march lacked the authorization needed for this type of demonstration. The local police repeatedly tried to persuade the demonstrators to give up the march. Subsequently, the Minister of the Interior expressly prohibited the demonstrators from moving off towards Nueva Guinea. To carry out their orders, the police set up police barriers on the road to Nueva Guinea and told the demonstrators that they could move about inside Yolaina but not march towards Nueva Guinea. The community none the less insisted on the march. On 28 October, at 10 a.m., the demonstrators arrived at the first police barrier. First there were accusations and insults on both sides and then the demonstrators threw stones, sticks and other objects at the police. Five civilians and one policeman were wounded as a result of this clash, and one person died and four were wounded in a further clash next day. The case was heard by the Military Court of First Instance of the Military Prosecutor's Office of the Fifth Military Region. In a ruling on 6 November 1991, the court dismissed the proceedings for homicide and assault brought against active servicemen José Benitez Soza, José Francisco Lagos Núñez and José Sevilla Loza. The ruling was based on article 28, paragraph 3, of the Criminal Code, in other words, the verdict was that they acted in accordance with their lawful duties;

(b) Jean-Paul Genie. The case of the murder of this boy is being investigated at the present time by the regional human rights body for the Americas, the Inter-American Commission on Human Rights. The complaint in this case (10,792) was sent by the Commission's Assistant Executive Secretary to the Government of Nicaragua in a note dated 22 July 1991. The request for information therefore precedes the request made by the Special Rapporteur of the Commission on Human Rights on summary or arbitrary executions, which is dated 8 November 1991;

(c) Case of Nueva Guinea (Yolaina Mountain's). On 8 November 1991, the Military Court of First Instance of the Military Prosecutor's Office of the Fifth Military Region of the Armed Forces stayed the proceedings against Erwin Barberena Morales, Leoncio Urbina Amador and José Castellón López for sedition and intentional homicide. The same court also dismissed the proceedings against Erwin Rivera Brizuela, Yader Gutiérrez Velázques and Miguel Centeno Sáenz, military personnel on active duty, for intentional homicide and assault. It was held that they are not criminally responsible for having acted in accordance with their duty and had been compelled by a pressing need to save themselves from serious danger that included risk to their own lives.

3. Additional information received by the Special Rapporteur

394. The Special Rapporteur received further information according to which two amnesty laws were passed in Nicaragua which might allegedly block investigations into past human rights violations.

Niger

1. Appeals for urgent action

395. During 1991, no appeals for urgent action were sent by the Special Rapporteur.

2. Other cases transmitted by the Special Rapporteur

396. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Niger transmitting information he had received concerning the alleged extrajudicial execution by members of the army in May 1991 of 63 people in Tchintabaraden, department of Tahoma, in northern Niger. Reportedly, these executions were carried out in retaliation for an earlier attack by rebels of the Tuareg minority ethnic group.

397. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Niger to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Nigeria

1. Appeals for urgent action

398. On 18 January 1991, the Special Rapporteur sent a cable to the Government of Nigeria concerning some 40 persons who had been convicted by the Robbery and Firearms Tribunal and sentenced to death. Allegedly, there was no right of appeal to a higher tribunal although those condemned could petition to the relevant State Military Governor. The following cases were alleged:

(a) Anambra State

(i) John Ezugwu was convicted and sentenced to death. A plea for clemency was submitted to the Military Governor, allegedly accompanied by new evidence which was not available at the trial. Gabriel Ali also was convicted and sentenced to death;

(ii) It also was alleged that 10 persons whose names are not known were convicted and sentenced to death.

(b) Lagos State

(i) Sheidi Bukari, Mohammed Hassan, Ibrahim Abdulkareem, Fatai Taiwo, Tajudeen Amady and Atanda Abel were convicted and sentenced to death by firing squad;

(ii) Another person, Olusegun Falase, received a sentence of 18 years imprisonment;

(iii) It was alleged that six persons whose names are not known were convicted and sentenced to death.

(c) Ondo State

(i) Oluranti Olasoji and Akinsanmi Alfonso were convicted and sentenced to death by firing squad;

(ii) It also was alleged that two persons whose names are not known were convicted and sentenced to death.

399. On 28 January 1991, another cable was sent to the Government of Nigeria concerning 12 young men who had been convicted and sentenced to death by the Robbery and Firearms Tribunal in Ikeja, Lagos State, in June 1988, and were thought to be facing imminent execution. The 12 were named as: Augustine Eke, Kiki Francis, Isa Garuba, Mohammed Garuba, Saidu Garuba, Oluwole Jitrey, Mohammed Ibrahim, Kabiru Mohammed, Shahabu Mohasu, Awuji Roshe, Mohammed Sani and Jubril Sumaila. The Special Rapporteur had already referred to these cases in his letter of 9 November 1988 addressed to the Permanent Representative of Nigeria to the United Nations Office at Geneva and had included this reference in his report submitted to the forty-fifth session of the Commission on Human Rights (E/CN.4/1985/25, para. 197 (a)). It was alleged that the 12 persons had no right of appeal to a higher court and that their trial was marked by a series of procedural irregularities. It further was alleged that Augustine Eke was only 14 years old at the time of his arrest in 1984. It was also reported that a thirteenth accused, Alkasu Mamunan, died during the trial, apparently from lack of medical care. The information received also indicated that the lives of the above-mentioned persons were at grave risk owing to harsh prison conditions and a lack of appropriate medical care.

400. In connection with the above two cases, the Special Rapporteur referred to article 14 of the International Covenant on Civil and Political Rights and to the Safeguards guaranteeing protection of the rights of those facing the death penalty adopted by the Economic and Social Council in resolution 1984/50 of 25 May 1984. He appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons and, in addition, requested information on those measures as well as on the investigation carried out by the authorities in those cases.

401. On 26 August 1991, the Special Rapporteur sent another cable to the Government of Nigeria concerning 13 persons convicted and sentenced to death by the Robbery and Firearms Tribunal in three jurisdictions, following trials which may have failed to meet minimum standards for fair trial, and also were thought to be facing imminent execution. According to the information, Benjamin Chukwu, aged 42, was reportedly convicted and sentenced to death on 26 September 1990, by a Robbery and Firearms Tribunal in Owerri, Imo State. Solomon Adebanji, Morufu Taiwo and Tajudeen Yisa, aged between 28 and 34 years, were reportedly convicted and sentenced to death in early May 1991

by the Robbery and Firearms Tribunal in Lagos State. Nine men (names and other details unknown) were reportedly sentenced to death on 16 May 1991 by the Robbery and Firearms Tribunal in Ikot Ekpene, Cross River State.

402. The Special Rapporteur also referred to information according to which, in 1991 alone, 15 persons were known to have been executed pursuant to convictions and sentences handed down by Robbery and Firearms Tribunals in various jurisdictions. The details were as follows:

(a) On 23 or 24 March 1991 in Akwa Ibom State, the following were convicted and sentenced to death by firing squad: Mfon Jackson, Sunday Isiah Akpan, Udo Akpan Ekpo, Sunday Jacob Aki, Okon Friday David, Emmanuel Efiiong Udo Udo, Okon Uduofo, Nsini Udofia Ukpong, Udo Okon Akpan, Friday Udofia and Okon Yong;

(b) On 10 April 1991, Godwin Nkem and Joseph Nwole were executed in public before hundreds of spectators in Nguru, Borno State; the date and place of their conviction is unknown;

(c) On 16 May 1991, Saidu Angare and Hassan Umaru, both from the Republic of Chad were executed in public in Jos, Plateau State; the date and place of their conviction is unknown.

403. In this connection, the Special Rapporteur referred to the fundamental principles embodied in articles 3 and 6, respectively, of the Universal Declaration of Human Rights and of the International Covenant on Civil and Political Rights and to the Safeguards guaranteeing protection of the rights of those facing the death penalty, as well as to the implementation of those Safeguards, subject of Economic and Social Council resolution 1989/64 of 24 May 1989. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons and, in addition, requested information on those measures as well as on the investigation carried out by the authorities in those cases.

Government reply

404. On 5 February 1991, a communication was received from the Government of Nigeria in response to allegations previously submitted by the Special Rapporteur. The Government recognized that the Commission on Human Rights was the primary United Nations institution charged with the responsibility for monitoring the observance of and adherence to all human rights standards by its Member States. Nigeria, as a Member of the United Nations, respected these fundamental functions which were entirely in keeping with the objectives and Charter of the United Nations. In this connection, the Government transmitted details of legal policy and practice concerning human rights and fundamental freedoms.

405. The Nigerian Government had never supported the restrictive interpretation that the subject of human rights was purely or absolutely the internal concern of any Government. On the contrary, it had long held the view, which is gaining universal currency, that the manner in which any

sovereign country treats its own citizens is a legitimate subject for international discourse. It welcomed this opportunity to explain its human rights position: the Government of Nigeria, proud of its continuing efforts to improve the welfare of all Nigerians and to build a strong, stable and just nation, had nothing to hide.

2. Other cases transmitted by the Special Rapporteur

406. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Nigeria transmitting allegations concerning extrajudicial executions by Government authorities of people suspected of armed robbery. In December 1990, in Ikor Ekpene, Akwa Ibon State, 10 men were allegedly executed in public on armed robbery charges. It was alleged that no right of appeal or other judicial review was granted to the victims. Between January 1990 and May 1991, nine people were allegedly extrajudicially executed on suspicion of armed robbery. Six of the victims were reportedly executed in Lagos, three others in Amambra State and two in Ondo province.

407. In the same letter, the Special Rapporteur transmitted to the Government of Nigeria information concerning alleged extrajudicial executions perpetrated by members of the police during peaceful demonstrations. On 25 May 1991, a student of the Yaba College of Technology was allegedly executed by armed security agents during a peaceful demonstration in Lagos. Two other men were also reported to have been executed by the police during a non-violent protest of traders at Alaba market in Lagos during 1990.

408. In the same letter, the Special Rapporteur transmitted allegations concerning several cases of death as a result of torture during periods of preventive detention. Between May 1990 and January 1991, at least eight people were reported to have died after having been tortured by police agents at different police stations in Lagos, including Llopeju, Pedro and Western Avenue.

409. The Special Rapporteur further communicated to the Government of Nigeria allegations concerning the death in detention as a consequence of bad prison conditions of 48 inmates of Apa prison, Lagos State and 16 others in Kiri Kiri prison in Lagos during 1989 and 1990; one of the prisoners at Kiri Kiri prison was allegedly tortured and brought to Yaba Psychiatric Hospital, Lagos, where he reportedly died.

410. In addition, the Special Rapporteur transmitted four cases of alleged extrajudicial executions by the police and members of the Lagos State Environmental Sanitary Task Force, which were reported to have taken place between January 1990 and May 1991 in Lagos. Two further incidents were reported in which two people were allegedly executed by police agents in Port Harcourt, River State, and Agbado, Ogun State, in January and February 1990, respectively.

411. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Nigeria to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Pakistan

1. Appeals for urgent action

412. On 11 November 1991, the Special Rapporteur sent an urgent message to the Government of Pakistan concerning the execution of at least 20 persons sentenced to death by "Special Courts for Speedy Trial" after proceedings which were alleged to have fallen short of international standards and whose execution were said to be imminent.

413. In August 1991, the twelfth amendment to the Constitution was adopted by Parliament providing for the establishment of Special Courts for Speedy Trial. Eleven such courts were said to have begun functioning as of August 1991. It was alleged that, in many cases, trials resulting in a death sentence had lasted only three or four days and the procedures of these Special Courts were alleged to have fallen short of international standards for a fair trial.

414. Between 20 and 40 persons who had so far been sentenced to death by the Special Courts for Speedy Trial were said to be in danger of being publicly executed. One person belonging to that group was said to be Zafar Iqbal, sentenced to death for rape and murder.

415. In this connection, the Special Rapporteur referred to the Safeguards guaranteeing protection of the rights of those facing the death penalty approved by the Economic and Social Council by its resolution 1984/50 of 25 May 1984, and to paragraph 4 of the Principles Relating to the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions adopted by the Economic and Social Council in resolution 1989/65 of 24 May 1989, to article 3 of the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons and requested information on those measures as well as on the investigation carried out by the authorities in those cases.

416. At the time of the preparation of the present report, no reply had been received from the Government of Pakistan.

Paraguay

1. Appeal for urgent action

417. On 10 April 1991, the Special Rapporteur sent a cable to the Government of Paraguay concerning death threats reportedly received by Rodolfo M. Aseretto, Pedro Portillo and Francisco de Vargas. According to the information, Mr. Aseretto and Mr. Portillo, lawyers for the Church Committee for Emergency Assistance (CIPAE) formally complained to the Attorney-General of Paraguay that they had received repeated threats against their lives in anonymous telephone calls and written messages. According to the lawyers, the threats are connected with their activities in judicial inquiries into previous violations of human rights, since both of them were legal representatives of victims of such violations, including cases of torture,

involuntary disappearances and extrajudicial executions of political prisoners held under the previous Government. Some of the proceedings against former officials of the Government were before the courts. It was also reported that Mr. Vargas, a former CIPAE lawyer and now Vice-Chairman of the Human Rights Commission of the Chamber of Deputies of Congress and a Deputy for the Liberal Radical Party, was attacked at his home at about 3 a.m. on 10 March 1991 by unidentified persons who opened fire on his house, an incident that was also reported to the Attorney-General.

418. In this regard, the Special Rapporteur referred to paragraph 4 of the Principles on the Effective Protection and Investigation of Extra-legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council in resolution 1989/65 of 24 May 1989, to the principles set out in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the lives and physical integrity of the above-mentioned persons. In addition, he requested information on those measures, as well as on the investigations carried out by the authorities in those cases.

Government reply

419. On 19 August 1991, the Special Rapporteur received a reply to his cable of 11 July 1990 concerning an incident in the area of the Itaipú dam on 12 December 1989 (see E/CN.4/1991/36, para. 359). In connection with this incident, the Prosecutor's Office said that pre-trial proceedings were initiated in the Second Rota Court of the Alto Paraná Judicial District for offences against law and order and the physical integrity of individuals. The prosecutor, Ramón Echeverría, had been instructed to get the proceedings moving. Similarly, officials of the Attorney-General's Office are getting the proceedings for offences against human rights moving by assisting the prosecutors.

Peru

1. Appeals for urgent action

420. On 1 July 1991, the Special Rapporteur sent a cable to the Government of Peru in connection with information concerning death threats reportedly received by Magno Sosa Rojas and Necías Taquiri, known as Necho, journalists in Huamanga, Ayacucho department. According to the information, on 10 June 1991 a paramilitary group calling itself the Anti-terrorist Liberation Commando forced persons working for Radio Wari to broadcast threats to kill the two journalists, in words that left no room for any doubt.

421. According to complaints received since December 1982 when a state of emergency was first declared in Ayacucho department, critics of the work of the Armed Forces, persons defending human rights and journalists who cooperated in calling attention to human rights abuses have received death threats and have been harassed by the Armed Forces or groups allegedly acting with their consent.

422. Among reported cases of journalists who have fallen victim to violence, mention should be made of the deaths of eight journalists in Uchuraccay, Huanta province, Ayacucho department, on 26 January 1983; the involuntary disappearance in August 1984 of Jaime Ayala Sulca, a correspondent of the Lima newspaper La República, after he was arrested in Huanta; and the disappearance of Hugo Bustios Saavedra, a correspondent for the magazine Caretas, who is said to have been executed in November 1988 by members of the Armed Forces while he was looking into the murder of a woman and her son. Previously, Bustios Saavedra had repeatedly received death threats as a result of his newspaper articles, which criticized the Army for alleged abuses of human rights.

423. In this regard, the Special Rapporteur referred to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council in resolution 1989/65 of 24 May 1989, to the principles set out in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. The Special Rapporteur appealed to the Government of Peru to take all measures at its disposal to protect the lives and physical integrity of the persons concerned. He also requested information on those measures, as well as the investigations carried out by the authorities in these cases.

424. On 3 July 1991, the Special Rapporteur sent a cable to the Government of Peru in connection with Juan Arnaldo Salomé Adauto, a 22-year-old tradesman who was stopped by four armed men in civilian clothes (presumably members of the Army or security forces) on 24 April 1991, in the town of Huancayo, Junín department, and taken to a police station close to the María Inmaculada school, where he was placed under arrest. Later, he was put into a van and taken to the "9 December" army barracks. Subsequently he complained that he had been savagely tortured and, while he was at the barracks, he saw other detainees who were also tortured and kept in handcuffs. On 10 June 1991, he managed to escape from the barracks, hiding in an army transport vehicle. Next day, his house was searched and his brothers, Víctor Luis and Rodolfo Alberto Salomé Adauto, were beaten up. Later, Salomé Adauto informed the Department of Public Prosecutions of his arrest and the torture he had suffered. It was feared that reprisals had been taken against him or members of his family and that their lives were in danger.

425. In this regard, the Special Rapporteur referred to the legal rules and instruments mentioned in paragraph 422 and, in view of the regular cooperation of these persons in United Nations procedures for the protection of human rights, he also referred to Commission on Human Rights resolution 1991/70 of 6 March 1991, which urged Governments to refrain from all acts of intimidation or reprisal against private individuals and groups who seek to cooperate with the United Nations and representatives of its human rights bodies. The Special Rapporteur appealed to the Government of Peru to take all measures at its disposal to protect the lives and physical integrity of the persons concerned. In addition he requested information on those measures, as well as on the investigations carried out by the authorities in these cases.

426. On 3 July 1991, the Special Rapporteur sent another cable to the Government of Peru in connection with Bertha López, aged 43, a teacher and the

widow of Jaime Cerrón Palomino, Vice-Rector of the National Central University of Peru, in Huancayo, Junín department. He was kidnapped on 8 June 1990, presumably by paramilitary groups and killed (his body was found on 17 June 1990). The couple's sons, Fritz Elias Cerrón Rojas, aged 22, Vladimir Roy Cerrón Rojas, aged 21, and Waldemar José Cerrón Rojas, aged 18, laid a complaint of persecution and death threats because they had taken legal action in connection with the murder of Jaime Cerrón Palomino, requesting an investigation and calling for the guilty to be punished. It is assumed that the persons responsible for the threats were the ones who committed the crime, and they are at liberty. It is alleged that Mrs. Rojas López recently received further threats, telling her to leave Huancayo, where she lives and works, and not to carry on with her inquiries to clear up the crime committed against her husband.

427. On 19 August 1991, the Special Rapporteur sent a cable to the Government of Peru concerning Jorge Chavez Morales, a journalist on the Lima newspaper La República, who reportedly received death threats in a letter on 9 August 1991. The letter was signed "Anti-terrorist Liberation Commando", which is believed to have the support of the Armed Forces. According to the information received, Mr. Chavez Morales has been investigating and publishing in his newspaper news about the killing of another journalist, Luis Morales Ortega, in Ayacucho on 13 July 1991. It was said that Mr. Chavez Morales laid a complaint about the threats with the Fourth Provincial Criminal Prosecutor's Office and demanded guarantees for his safety. He said he was especially concerned because other journalists had fallen prey to summary executions and disappearances in the past, and one of them, Luis Morales Ortega, had been killed after being threatened by a paramilitary group.

428. On 24 September 1991, the Special Rapporteur sent a cable to the Government of Peru in connection with Macedonio Lirio Léon, aged 40, married, with seven children, a peasant leader and president of the "Atusparia Uchcu Pedro" Agrarian Federation in Ancash department. According to the information, on 1 May 1991 Colonel P.T. Idolfo F. Cueva Retuerto and members of the police in the town of Huaraz threatened him with their weapons at a meeting held by his organization. Later, accusations were made to the police that he had stolen a motor car and he was brought before the First Examining Court in Huaraz. It was also reported that Lirio León wanted to appear before the court to clear up his situation, but he was afraid of being remanded in custody in contact with prisoners belonging to Shining Path, an organization which has also threatened to kill him because of statements that he did not support it. The complainant points out that the prison to which he would be sent does not have enough room to segregate prisoners.

429. On 8 October 1981, the Special Rapporteur sent a cable to the Government of Peru concerning information about threats against the lives and physical integrity of the following persons: Egidio Ore Mallco, Mayor of the peasant community of Tamara; Máximo de la Cruz Baraona, a community herdsman; Nacario Palomino Tolentino, former municipal official; Víctor Tadeo Escalente, Vice-Chairman of the Development Committee and Próspero Solís, water supplier. At 3 a.m. on 2 August 1991, members of the Peruvian Army from the Quinches military base, in the province of Yauyos, department of Lima, entered

the Tamara community, wearing ponchos and with their faces masked, apparently in an attempt to pass themselves off as members of Shining Path. According to the information, they forced the population to assemble in the main square and asked for the whereabouts of the persons concerned. Mr. Ore Mallco and Mr. de la Cruz Baraona had fled in the direction of Lima. The soldiers arrested Próspero Solis and took him to the local military post and, after 20 days, he had to appear before the Yauyos police. In addition, the soldiers threatened to kill the relatives of Egidio Ore Mallco and Máximo de la Cruz Baraona if these men did not give themselves up.

430. The threats were repeated two weeks later when the Army again turned up in the district and the relatives, too, were forced to leave for Lima. It was also reported that, on 18 September 1991, the persons who had been threatened, together with local authorities and a Deputy, Anastasio Vega Ascencio, spoke with an adviser to General César Ramal, chief of an élite army unit, who denied any unlawful behaviour on the part of the Army and then told them to turn up on 24 September at the Quinches base to talk with the commander.

431. On 5 November 1991, the Special Rapporteur sent a cable to the Government of Peru in connection with the information that, on 10 October 1991, Ruth Melissa Alfaro Mendez, aged 23, a journalist working as news editor for Cambio, a weekly magazine, died in the explosion of a parcel-bomb containing foreign newspapers sent to Carlos Arroya, the editor of Cambio, that was left at the magazine's offices. According to the complaint, the editor of Cambio repeatedly received threats from the self-styled Comando Rodrigo Franco, a paramilitary group previously held to be responsible for attacks against Cambio vendors in Junín department.

432. In addition, on 21 June 1991, another device exploded opposite the Cambio offices and killed Mr. Víctor Hugo Ruiz León. The complaint also stated that, together with these attacks, Cambio has suffered other harassment such as the confiscation, without a court order, of a number of its issues and a criminal complaint laid against the editor for supporting terrorism, although he was cleared of this charge. It was also reported that the explosive that killed Mrs. Alfaro Mendez consisted of 200 g of ambogelatine, which is used by the Army and apparently similar to the explosive used in the attack on the life of Augusto Zuñiga, the legal adviser of the Human Rights Commission.

433. On 14 November 1991, the Special Rapporteur sent a cable to the Government of Peru in connection with events in the community of Santa Bárbara, Huancavelica, mentioned by the Government in two notes verbales dated 29 September 1991 and 1 November 1991 addressed to the Centre for Human Rights by the Permanent Mission of Peru at Geneva (see para. 445). The communication received said that, after being held for several days, apparently in connection with the events in Santa Bárbara, Nicolás Hilario Moran and Lorenzo Quispe Huamen, mayor and councillor respectively of the community, had been released. These two persons, together with Máximo Pérez Torres and other members of the community, reportedly signed the first complaints in connection with the events at Santa Bárbara. The communication expressed concern about the lives of these and other persons who signed the complaint and of the witnesses of the events, since the complaint publicized and led to an investigation of the serious violations of human rights committed against members of the community. As the Government reported,

following the investigation, several members of the Army had been accused of committing serious offences and it is feared that reprisals may be taken against the persons concerned and that their lives may be in danger. These fears are based on the fact that, on previous occasions when members of the Armed Forces were placed on trial, witnesses to the events were later killed (case of the witnesses to the Cayara massacre; see E/CN.4/1991/36, para. 363).

434. In connection with the above-mentioned cases the Special Rapporteur referred in his six cables to the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council in resolution 1989/65 of 24 May 1989, to the relevant principles in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. In addition, he appealed to the Government to take all measures at its disposal to protect the lives and physical integrity of the persons concerned and also requested information on those measures, as well as on the investigations carried out by the authorities in these cases.

Government reply

435. On 8 March 1991, the Special Rapporteur received a communication from the Government of Peru reporting the killing, on the night of 1 March 1991, of 13 peasants by a column of the subversive group Shining Path in Mantaro district, La Mar province, Ayacucho department. It also said that, on the night of 23 to 24 February 1991, 23 peasants (including eight women) were killed by a 150-member group of the subversive organization Shining Path, in the village of Jano, Ayna district, La Mar province, Ayacucho department. Eleven persons were wounded and five kidnapped as a result of this incursion. The village was virtually razed to the ground after most of its 60 dwellings were looted and set on fire.

436. On 30 May 1991, a communication was received from the Government of Peru transmitting a copy of two Ministry of Defence tables containing statistics for 1990 and 1991 on complaints about summary or arbitrary executions in Peru.

437. On 3 September 1991, a communication was received from the Government of Peru in connection with the alleged summary or arbitrary execution of Porfirio Suni Quispe, a leader of the Puno Departmental Federation and a deputy for the region of José Carlos Mariátegui. According to investigations by the Ministry of Defence, Suni Quispe had on various occasions been an activist, sympathizing with subversive groups, and when he was later elected as a member of the regional government, he had protected the SAIS Aricoma and helped to organized peasant patrols in that area, for which reason Shining Path may have marked him down as an enemy and decided to execute him for this change in attitude.

438. It was also said that the Ministry of Defence had arranged for the Armed Forces High Command to provide the requisite safeguards for the family of Bertha López Cerrón.

In addition the communication transmitted the following information from the Ministry of Defence:

(a) Teodoro Crespo Villavicencio and Elías Fernández Aguilar had in no circumstances been arrested by the forces operating in the Parinacochas province, Ayacucho department;

(b) Silvio Alejandro Campos Bravo, Edmundo Campos Zevallos, Juan Carlos Goetencia Alarcón, Jesús Canchari Pérez and Aristófeles Iturrizaga Huamán had in no circumstances been arrested by forces operating in Satipo and Chanchamayo provinces, Junín department

439. On 4 September 1991, a communication was received from the Government of Peru transmitting the text of a legislative decree issued by Alberto Fujimori, President of Peru, on 2 September 1991. Under the decree, officials of the Department of Public Prosecutions can enter military bases and police detention centres in emergency areas throughout Peru in order to investigate the situation of persons who are being held or have been reported as missing.

440. On 10 September 1991, a communication was received from the Government of Peru to the effect that the presumed killers of Fernando Colonio Arteaga, Máximo Rico Bazán, Gabriel Tupia Huamancusi and Ciro Aramburú Villanueva had been questioned by the Ayacucho police. After their statements were taken they had been placed at the disposal of the Huamanga First Prosecutor's Office in May 1991.

441. On 13 September 1991, a communication was received from the Government of Peru stating that the Ministry of Defence had arranged for the Armed Forces High Command to take the necessary steps to protect the physical integrity and lives of Magno Soso Rojas and Necias Taquiri. Again, according to information supplied by the Assistant Senior Criminal Prosecutor for the Protection of Human Rights, proceedings were initiated against Magno Sosa for terrorist activities and his statement was taken on 23 August in the Apoyo hospital in Huancayo, where he was being treated for an inflamed gastric ulcer. There was a stay of proceedings in the case brought against Mr. Soso by the provincial prosecutor and he was released.

442. On 24 September 1991, a communication was received from the Government of Peru transmitting a list of 33 persons, mentioned in the report by the Special Rapporteur on summary and arbitrary executions, who had in no circumstances been questioned or arrested by military personnel on the counter-insurgency fronts in question. These persons were: Estanislao Polanco Rojas, Francisco Ramos Bautista, Virgilio Barrientos Ramos, Virgilio Barrientos Polanco, Esteban Barrientos Vega, Andrés Numani Polanco, Mana Bautista Quispe, Franco Ramirez, Ignacio Tito, Clemente Chaupin Barrientos, Domingo Quispe, Cirsostomo Condori Quispe, Natividad Quispe, Alejandro Quispe Condori, Balbino Huamani Medina, Marcos Torres Salhua, Juan Huisa Pacco, Marcos Zacarias Huisa, Gregorio Alferez Huisa, Julio Huamani Huisa, José Huamani Charcahuana, Julio Apfata Tanire, Jesús Jauja Sullo, Eustaquio Apfata Salhua, Hermenegildo Jaas, Falconeri Saravia Castillo, José Burneo Labrin, Máximo Rico Bazon, Fernando Luis Colonio Arteaga, Gabriel Tupia Huamancusi, Ciro Aramburu Villanueva, Jaime Cerron Palomino and Armando Tapia Gutierrez.

443. On 25 September 1991, a communication was received from the Government of Peru transmitting information that Maria Guinarita Pisco Pisango had not been questioned by the police.

444. On 22 October 1991, a communication was received from the Government of Peru stating that Mr. Lirio Léon, President of the Agrarian Federation, Ancash department, was no longer authorized to represent the Federation, and his whereabouts were unknown; he was somewhere in Macará district, Carhuaz. He was a fugitive from justice, since an arrest warrant had been issued by the Huaraz First Examining Court, on the grounds of terrorism. Since his whereabouts were unknown, it was not possible to provide the guarantees and protection requested by the Special Rapporteur (see para. 428).

445. On 1 November 1991, a reply was received to a cable by the Special Rapporteur concerning the events of 4 July in the community of Santa Bárbara. According to information supplied by the Ministry of Defence, subsequent inquiries had revealed that a patrol of the Pamapas No. 43 Counter-Insurgency Batallion had committed abuses in connection with 14 peasants suspected of being subversives. Consequently, a complaint had been laid with the Court Martial of the Army's Second Judicial Zone against the following military personnel:

(a) Infantry Lieutenant Javier Bendezu Vargas, for aggravated homicide, abuse of authority and misuse of property, with aggravating circumstances;

(b) Private Third Class Duilio Chipana Tarqui, for breach of duty and discredit to the Army, and improper administration of justice;

(c) Private Second Class Fidel Eusebio Huaytalla, for breach of duty and discredit to the army;

(d) Sergeant First Class Oscar Carrera Gonzales, for abuse of authority;

(e) Sergeant Second Class Carlos Prado Chinchay, for aggravated homicide, misuse of property and sexual offences.

The Government of Peru wished to emphasize its firm resolve to conduct an exhaustive inquiry into any complaint of alleged violations of human rights and to punish any guilty persons in accordance with the law.

446. On 2 December 1991, a further reply was received from the Government of Peru regarding the offences committed in the community of Santa Bárbara on 4 July 1991. It was confirmed that the investigations by the Ministry of Defence had revealed that the patrol of Pamapas No. 43 Counter-Insurgency Batallion had committed abuses in connection with 14 peasants and a complaint had been laid with the Court Martial of the Army's Second Judicial Zone against an officer and four non-commissioned officers. The court proceedings in question were being conducted in accordance with the law.

2. Other cases transmitted by the Special Rapporteur

447. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Peru, transmitting allegations of summary or arbitrary executions between August 1990 and June 1991 which concerned more than 40 people. In particular, the Special Rapporteur had received information with regard to the following incidents:

(a) On 22 August 1990, soldiers and members of an army-controlled Civil Defence Committee reportedly killed 16 people from the Iquicha community, near Uchuraccay, Huanta province. Allegedly, they had refused to participate in a planned confrontation with Shining Path because they feared that they would be used as a protection shield by the soldiers. According to the information submitted to the Special Rapporteur, no full judicial investigation had been initiated;

(b) On 26 September 1990, soldiers from the Adcomarca military base reportedly detained 16 peasants from the community of Pucapaccana, district of Independencia, Vilcashuamán province. Allegedly, the victims were subjected to torture, as a result of which three men were said to have died; the survivors were reportedly threatened with death if they denounced the incident to the authorities;

(c) On 18 October 1990, the bodies of 18 people were reportedly exhumed from 3 mass graves in Chillcahuaycco, District of Santiago de Pischa. They were said to have been detained and later executed by members of the army, together with army-controlled Civil Defence groups. A Senatorial Commission, set up in October 1990, reportedly investigated the case and concluded that those responsible for the massacre were members of the Peruvian army;

(d) In November 1990, one man was reportedly killed and three others were wounded when members of the police and private security forces shot at unarmed workers who were demonstrating for social benefits at a food factory at Samanco, Chimbote, Ancash Department;

(e) In May 1991, four men from the community of Sillota, district of Asillo, Azangara, were detained, tortured and killed by members of an army patrol;

(f) On 21 June 1991, three students were tortured and killed in Lima, by police officers who allegedly accused them of being terrorists. It was reported that a judicial investigation into the cases was initiated, nine police officers were suspended from their duties and five of them charged with murder; according to the source, a Supreme Court decision was pending as to whether the case would continue under civil jurisdiction or be transferred to a military court.

448. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Peru to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

3. Additional information received by the Special Rapporteur

449. Violations of the right of life continued to be reported to the Special Rapporteur on a large scale: many extrajudicial killings were reported against the background of the ongoing armed conflict; more than half of Peru had been placed under a state of emergency by the end of July 1991. According to non-governmental sources, since July 1990, more than 3,000 deaths were caused by political violence, many of them in clashes between the army and the armed opposition; more than half of these deaths were attributed to armed opposition groups. In particular, Shining Path was reported to have continued with executions of peasants organized in Civil Defence groups (Rondas Campesinas) or suspected of collaboration with government forces; in the urban areas, Shining Path reportedly targeted foreign nationals, clergymen and Peruvians of Japanese origin. To a far lesser extent, the Tupac Amaru Revolutionary Movement (MRTA) was also said to be responsible for killings.

450. Numerous extrajudicial killings were reported to have been carried out by the army and the security forces and other groups linked to them, or acting with their acquiescence and complicity. After the disappearance of the Comando Rodrigo Franco by July 1990, groups reportedly started in October 1990 to operate, using "death squad"-style methods, especially in the emergency zones. According to the information submitted to the Special Rapporteur, 58 extrajudicial executions in 14 separate incidents could be attributed to the official security forces and related groups during the first 12 months of the present Government. The principal victims were said to be peasants, who were allegedly executed for their refusal to join the Civil Defence groups, in retaliation for Shining Path attacks, or because they were suspected by the military of sympathizing or cooperating with Shining Path. Journalists and human rights activists, either acting out of individual concern for human rights or within human rights organizations such as the Pro-Human Rights Association (APRODEH) and the non-governmental Commission on Human Rights (COMISEDH), were also reported to be targets for executions or death threats.

451. The Special Rapporteur was further informed that these human rights abuses continued to enjoy impunity. It was reported that, during the course of the present administration, only four judicial investigations into cases of alleged human rights violations had been initiated. Efforts made by the Office of the Public Prosecutor to increase the scope and effectiveness of its attempts to investigate denunciations of human rights violations had reportedly encountered enormous difficulties due to lack of resources, lack of official support and obstruction by the army who had refused to cooperate with the prosecutors, especially in the emergency zones. Members of the armed forces had allegedly enjoyed almost total impunity, as jurisdiction in cases of human rights violations continued to be claimed, and exercised, by military courts.

The Philippines

1. Appeals for urgent action

452. On 12 April 1991, the Special Rapporteur sent a cable to the Government of the Philippines concerning Romeo Capulong, a human rights lawyer and a member of the Free Legal Assistance Group (FLAG), who acted as defence lawyer for a number of people accused of involvement with the outlawed Communist Party of the Philippines (CPP) and similar crimes. Mr. Capulong had been subjected to intimidation by armed men believed to have links with the Philippines security forces. On 19 March, he was followed by men in a passenger car - a Toyota Cressida with tinted glass and licence plate number NRB 838 - as he drove from Manila to his home in Nueva Ecija Province; the identity of those in the car is unknown but it is believed that they may be linked to military intelligence forces. The day before the incident, Mr. Capulong had been involved in a dispute in court while acting as defence lawyer for two alleged high-ranking members of the CPP. On 1 April 1991, during judicial proceedings involving six alleged members of the New People's Army (NPA), an armed man in civilian clothing entered the courtroom and asked for Mr. Capulong's personal driver; following identification of Mr. Capulong by one of the military escorts of the six defendants, the armed man left the courtroom with another identified man. According to an eyewitness, the two men drove away on a red Honda motor cycle with no licence plates. At least three human rights lawyers killed in the past three years were shot by unidentified men in civilian clothing riding similar motor cycles. In this connection the Special Rapporteur emphasized that it was the responsibility of the Government to prohibit by law all extralegal, summary or arbitrary executions and to ensure that such executions did not take place.

453. On 12 August 1991, the Special Rapporteur sent a cable to the Government of the Philippines concerning Benedicto Pacheco, Vidal Tombo and Roberto de Vera who were the apparent victims of attempted extrajudicial executions. According to the information, on 17 July 1991, Mr. Tombo, a human rights lawyer, was at home with two companions, Benedicto Pacheco and Roberto de Vera. At approximately 11.30 p.m., he noticed that a motor cycle and a red jeep, each carrying two men, had driven past his home; shortly thereafter, they returned: two men alighted from the vehicles and fired for nearly 10 minutes on the men in the house. Mr. Pacheco suffered injuries to his left elbow and ankle; Mr. Tombo was injured in his right arm and stomach; Mr. de Vera was shot in his right leg and arm. The primary target of the attack appeared to have been Mr. Tombo, who had served as defence counsel for political prisoners and those accused of membership in the New People's Army and had also served as the President of a peasant cooperative in his home town.

454. During the past three years, at least six human rights lawyers allegedly had been the victims of extrajudicial executions: of these six, three were members of the Free Legal Assistance Group (FLAG), an organization active in the defence of human rights and in reporting violations by members of the government security forces. In addition, during this period many other lawyers had received death threats or had been otherwise intimidated.

During 1991, a FLAG lawyer, Nerio Zamora, had received a death threat from the provincial police commander in Bohol and the human rights lawyer Romeo Capulong was followed by unidentified men believed to be connected to military intelligence forces.

455. On 6 November 1991, the Special Rapporteur sent a cable to the Government of the Philippines concerning Wilfred D. Asis, a human rights lawyer and a member of the Free Legal Assistance Group (FLAG). FLAG contributes on a continuing basis to United Nations procedures for the protection of human rights. Mr. Asis was acting as defence lawyer for six people accused of involvement with the outlawed Communist Party of the Philippines (CPP). The six had been acquitted of subversion on 22 August 1991. On 29 August 1991, Mr. Asis received a letter from a man named Guyong, who claimed to represent the National Democratic Front (NDF), the underground united front organization controlled by the CPP. The letter began by praising Mr. Asis for his human rights activities but went on to say that he was being "investigated" for the killing of two persons named Leo and Mike. The letter concluded by offering "condolences" for the forthcoming death of Mr. Asis who stated that he knew of no persons by the names of Guyong, Leo or Mike. In September 1991, Mr. Asis informed the Philippines National Police of the threat to his life. A police superintendent was reported to have told him that elements of the Philippines Armed Forces might have been contemplating "getting rid of him"; the superintendent also reportedly advised him to seek the assistance of the Secretary of Justice.

456. In connection with the above three cases, the Special Rapporteur referred in his cables to paragraph 4 of the Principles Relating to the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions adopted by the Economic and Social Council in its resolution 1989/65 of 24 May 1989, to the principles embodied in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. He further appealed to the Government of the Philippines to take all measures at its disposal to protect the life and physical integrity of the persons concerned and requested information on those measures, as well as on the investigation carried out by the authorities in those cases.

Government reply

457. On 25 July 1991, a reply was received from the Government of the Philippines to the Special Rapporteur's cable of 28 November 1990 transmitting a list of 42 military personnel who had been convicted of serious human rights violations in the Philippines from 1986 to the present, thus disproving, according to the Government, the allegation that the military committed human rights violations in the Philippines with "impunity".

2. Other cases transmitted by the Special Rapporteur

458. On 8 November 1991, the Special Rapporteur sent a letter to the Government of the Philippines transmitting 46 cases of alleged summary or arbitrary executions, including the following:

(a) On 21 December 1990, a farm worker was shot to death, allegedly by military personnel, in front of his family at San Isidro, northern Samar.

On 13 January 1991, another farm worker was reportedly arrested by the army and was afterwards found dead in bangaray Sitio Lebanon, northern Samar;

(b) On 10 January 1991, a pastor of the Philippines Independent Church (Aglipaya) was allegedly killed by two unidentified men believed to have links with the security forces;

(c) On 24 February 1991, two workers from a peasant organization in Mindanao had reportedly been arrested by military men in civilian clothes and found dead on 26 February 1991 at Butuan City;

(d) On 28 June 1990, two trade unionists were allegedly killed by army officers during a funeral at North Cemetery in La Loma, Quezon City. Reportedly, the army fired on the unarmed crowd attending the funeral, killing two and injuring many others;

(e) Between June and November 1989, during and after a protracted industrial dispute, six employees of the Golden Taxi Company were allegedly killed by the security forces or company guards and hired "goons" acting with the support or connivance of local military and police authorities;

(f) In September 1990, three people were reportedly killed during a strike at the Goldilocks Bakery in Mandaluyong, Metro Manila, by company security guards or "goons";

(g) On 22 November 1990, three trade unionists, members of the National Federation of Sugar Workers, were allegedly killed by members of the paramilitary Citizens' Armed Forces Geographical Unit in Negros Occidental Province.

459. In addition to the above, on 17 January 1991, a death threat was made against a human rights lawyer, allegedly by the provincial commander of the paramilitary Philippine Constabulary (PC) in Bohol province. On 19 March 1991, another human rights lawyer and member of the Free Legal Assistance Group (FLAG) was allegedly subjected to intimidation by armed men believed to have links with the security forces. Many lawyers from Negros Occidental have allegedly been threatened by groups supported by the army. On 23 January 1991, reportedly the most serious in a series of letters containing death threats intended for a Roman Catholic priest was received. On 10 February 1991, a parish coordinator of Isio Parish was threatened by unidentified gunmen believed to have links with the military at Cauayan, Negros Occidental.

460. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of the Philippines to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Rwanda

1. Appeal for urgent action

461. On 5 March 1991, the Special Rapporteur sent a cable to the Government of Rwanda drawing its attention to information received to the effect that certain persons had been condemned to death on 7 January 1991 by the State Security Court, which had failed to observe minimum international rules concerning a fair trial. The persons were Carpophore Gatera, Jean-Baptiste Karinijabo, Jean-Chrysostome Karuranga, Donatien Rugema, Charles Tamba, Narcisse Munyabaraga, Charles Mukurarinda and Emmanuel Ntakiyimana. According to the information received, the hearing, after which the death sentence was pronounced, lasted less than five hours. The accused were liable to the death penalty, but none of them received the assistance of a legal representative, something which affected not only their right to a defence but also their opportunity to appeal to a higher court. In addition, the accused informed the Court that, while they had been in pre-trial detention, they had been beaten up or threatened in order to force them to say that they were guilty. However, the Court did not conduct any inquiry into those allegations and deemed the evidence inadmissible. Moreover, material evidence was not produced for all of the charges against the accused. Lastly, most of the judges on the bench had close ties with the armed forces or the Government and inadequate legal training. Since the trial, the composition of the Court is said to have been changed.

462. In this regard, the Special Rapporteur referred to article 14 of the International Covenant on Civil and Political Rights and to paragraphs 4, 5 and 6 of the Safeguards guaranteeing the rights of those facing the death penalty, approved by the Economic and Social Council in resolution 1984/50 of 25 May 1984. He appealed to the Government to use all means at its disposal to protect the lives and physical integrity of the persons concerned and also requested information on those measures, as well as on the investigations carried out by the competent authorities in these cases.

463. At the time of preparation of the report, no reply had been received from the Government of Rwanda.

2. Other cases transmitted by the Special Rapporteur

464. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Rwanda transmitting information he had received regarding six incidents of alleged extrajudicial killings. The first three involved more than 200 members of the opposition army in exile on the Ugandan border, the Rwandan Patriotic Front (FPR); they were killed by members of the Rwandan Armed Forces in retaliation for earlier attacks by the FPR. Two other cases concerned hundreds of members of both Tutsi and Bagogwe ethnic groups, who allegedly had supported the rebel force. In the latter cases, the forces responsible for the executions were reported to be the Armed Forces. The last case concerned the death in custody, allegedly as a result of torture, in Mekibongo Prefecture, of an Episcopal priest; it was reported to the Special Rapporteur that no investigation into this case had been undertaken.

465. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Rwanda to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Government reply

466. On 18 December 1991, in reply to the Special Rapporteur's letter of 8 November 1991, the Government of Rwanda transmitted the following information about the cases in question:

(a) Alfred Cyafubire. He was arrested on 6 December 1990 for collaborating with the Inkotanyi, and was taken to the Rwamagana Brigade, where his health deteriorated. He was immediately taken to hospital where he died shortly afterwards. The Prosecutions Department of the Kiga Court of Appeal is continuing the investigations;

(b) Sabin Nshutinzima and Pierre Chrysologue Mutanguha. They were probably among the persons killed during the attack on the Ruhengeri Prefecture. Judicial inquiries have been initiated into these cases and are also being conducted by the Prosecutions Department of the Ruhengeri Court of Appeal;

(c) One hundred persons (names unknown). They were members of the Rwandan Patriotic Front and they met their deaths on the field of battle;

(d) Samuel Ndagijimana, Nathanaël Karasira, Moïse Cyintama and his four brothers, together with more than one hundred members of the Bagogwe ethnic group. These cases were being examined by the Prosecutions Department of the Ruhengeri Court of Appeal;

(e) Several hundred persons in Mutara. These persons, who were not only members of the Rwandan Patriotic Front in civilian clothing but also Rwandan soldiers, met their deaths on the field of battle;

(f) Rukingamubiri family, Phocas Nkunzingabo and a number of other persons who died in detention in the Gsien Prefecture, in the commune of Kanama. A file has been opened and the pre-trial proceedings are being conducted by the Department of Public Prosecutions in Gisenyi.

467. The Rwandan Government had taken additional measures to prevent further loss of life in similar conditions, namely, negotiations to put an end to the inter-ethnic war in the north of the country and a seminar for soldiers on the subject of observance of human rights in time of war.

Senegal

1. Appeal for urgent action

468. During 1991, no appeal for urgent action was sent by the Special Rapporteur.

2. Other cases transmitted by the Special Rapporteur

469. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Senegal transmitting five cases of alleged summary or arbitrary execution. Four incidents were reported to have occurred in 1990 in different areas of Casamance and concerned extrajudicial executions or death in custody of members of the separatist group Mouvement of Casamance Democratic Forces (MFDC), the main political organization campaigning for autonomy or independence of the Casamance region. Army members, regional police and prison authorities were said to have been responsible for the killings.

470. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Senegal to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

3. Additional information received by the Special Rapporteur

471. The Special Rapporteur took note of a ceasefire agreement concluded between the Government of Senegal and the Casamance separatist movement on 31 May 1991, which reportedly entailed complete withdrawal of governmental forces from the conflict areas, the ending of hostilities, and free circulation of goods and people within the Casamance region. It was hoped that this might lead to an improvement of human rights in Casamance.

South Africa

1. Appeals for urgent action

472. On 15 March 1991, the Special Rapporteur sent a cable to the Government of South Africa concerning threats upon the life of Reverend Mzamo Phumzike Mathe, a human rights activist. According to the information, Rev. Mathe was the organizing secretary of the Northern Natal Council of Churches, in Ladysmith. He had been active in assisting communities threatened with dispossession of their homes and land as a consequence of apartheid laws and in establishing "crisis committees" in Ladysmith and in nearby towns to act as mediators in the violent political conflict which had occurred in Natal Province since 1987. In the early part of 1990, Rev. Mathe had received a number of threatening telephone calls, including death threats. On 22 March 1990, he reported these calls to the police. The threatening telephone calls continued. On 30 July 1990, the police told his lawyer that the case was being investigated in detail but that there were no likely suspects. On 26 February 1991, Rev. Mathe received a telephone call at his office from a man who referred to the killing of Chief Maphumulo, a political activist, saying "You will be the next one".

473. In that connection, the Special Rapporteur referred to the fundamental principle embodied in article 6 of the International Covenant on Civil and Political Rights and appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned person. In addition, he requested information on those measures, as well as on the investigation carried out by the authorities in that case.

474. On 21 June 1991, the Special Rapporteur sent a cable to the Government of South Africa concerning 18 persons in Bophuthatswana who had been sentenced to death and were awaiting execution. They were said to be: Johannes Chauke, Thomas Makhubela, Charles Mokwena, Stephen Mlate, Paul Ramulta, Jonathan Konopi, David Maaroganye, Patrick Mokotedi, Jonathan Molema, Stephen Mashinii, Robert Montsho, Molehegi Molekwa, Adam Mashele, Barnabas Thipi, Thomas Phiri, Zacharia Machaisa, Samuel Mhisi and David Mzimela. According to the information, the prisoners had variously filed for an appeal, lacked the legal assistance necessary to file an appeal or, the appeal having been rejected, had filed a clemency petition or lacked the legal assistance necessary to file one. It has reported that Messrs. Molekwa and Mashele, who were co-accused, had been notified five days before that their execution was scheduled for 19 June 1991. On 18 June 1991, a stay of execution was granted. At the time of receipt of the notice of execution, the status of the legal proceedings of the co-accused differed: Mr. Molekwa's leave to appeal had been dismissed on 8 May 1990 while Mr. Machele had not yet appealed. It would therefore appear that there had been procedural irregularities. In addition, on the basis of the reports received, it would appear that the trial procedures under which all of the accused had been convicted and sentenced to death, as well as procedures relating to appeal and clemency, fell short of international standards for fairness.

475. In that connection, the Special Rapporteur referred to the fundamental principles embodied in the Universal Declaration of Human Rights and reiterated in the International Covenant on Civil and Political Rights, to a decision by the Human Rights Committee concerning the issues of legal assistance and effective legal representation (Carlton Reid v. Jamaica), and to the Safeguards guaranteeing the protection of the rights of those facing the death penalty, approved by the Economic and Social Council in its resolution of 25 May 1984. He appealed to the Government of South Africa to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons and requested information on those measures, as well as on the investigation carried out by the authorities in those cases.

476. On 26 August 1991, the Special Rapporteur sent a cable to the Government of South Africa concerning Frans Mahuma, Thomas Mavundla, Thomas Monene and Elliot Rampau, all from Khutsong township outside Carletonville in western Transvaal province, who had been arrested by members of the South African police on 23 July 1991. They were detained at Welverdiend police station near Carltonville. A few days later they were released, without charges having been brought against them. According to the information, the four men informed their lawyer that they had been tortured during interrogation with the aim of making them confess to crimes which they had denied having committed. Several police officers, including an officer recently appointed as commander of the police station, were implicated in the allegations of torture. At least one of the men was threatened with death if he revealed that torture had been carried out.

477. It was also reported that members of the South African police at Welverdiend police station had repeatedly been linked to allegations of torture and extrajudicial executions (see doc. E/CN.4/1991/36, para. 463 (e)). It was further reported that during 1990, Mr. Mbuyiselo "Nixon" Phiri had

also died after being held at Welverdiend police station; allegedly, he had been tortured. During that same period, six other detainees at Welverdiend police station were shot dead by police under suspicious circumstances. Four of the six had alleged in statements to their lawyers that they had been tortured during interrogation and that they had witnessed the torture of fellow detainees there.

478. The Special Rapporteur noted that, in early July 1991, President De Klerk had set up a Special Task Force under the direction of Major-General R. Van Der Westhuizen to investigate, among other things, allegations of police involvement in acts of torture and extrajudicial executions in Khutsong township and at Welverdiend police station. Five of the police officers formerly based at Welverdiend police station had reportedly been suspended from duty at the end of July. Nevertheless, according to the information, other police officers allegedly involved in human rights violations, including extrajudicial executions, remained in their posts.

479. In that connection, the Special Rapporteur referred to the fundamental principles embodied in the Universal Declaration of Human Rights which were reiterated in the International Covenant on Civil and Political Rights and in the Declaration and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to the Standard Minimum Rules for the Treatment of Prisoners, adopted by the 1955 United Nations Congress on the Prevention of Crime and Treatment of Offenders, and to the Principles Relating to the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions adopted by the Economic and Social Council in its resolution 1989/65 of 24 May 1989. The Special Rapporteur appealed to the Government of South Africa to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons and requested information on those measures, as well as on the investigation carried out by the authorities in those cases.

480. On 13 September 1991, the Special Rapporteur sent a cable to the Government of South Africa concerning information that at least 57 persons had been killed and 44 wounded in Thokoza township when unidentified assailants fired upon persons on their way to a rally. According to the information, on 8 September 1990, a group of Inkatha supporters were marching to join a rally in favour of fellow hostel-dwellers. Allegedly, a man wearing a long black jacket and wielding an AK-47 appeared, blowing a whistle. He then was joined by other men, also carrying rifles, who opened fire on the crowd. Reportedly, army personnel escorting the marchers did not immediately attempt to disarm the attackers, although, after the killings, the police and army moved in with the aim of forcing the marchers back to their hostels and preventing further attacks. At least one suspect was arrested and a police inquiry into the incident has been ordered. The killings came in the wake of increasing tensions in East Rand factories between members of the Inkatha-affiliated union, Uwusa, and supporters of the African National Congress. Reportedly, at least six persons had been killed and over a dozen injured since July 1991 as a result of such tensions.

481. In that connection, the Special Rapporteur referred to the Principles Relating to the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, and to articles 3 and 6, respectively, of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. He appealed to the Government to take all measures at its disposal to protect the life and physical integrity of its citizens and requested information on those measures, as well as on the investigation carried out by the authorities in that case.

482. On 13 November 1991, the Special Rapporteur sent a cable to the Government of South Africa concerning Solomon Nhleko, a community activist and a member of the African National Congress (ANC). On 20 October 1991, he was severely wounded in the course of an attack by a group known as Amasinyoras, which was alleged to have links with the South African Defence Force and the Kwazulu police. It was also reported that his brother, Buti Nhleko, together with three other ANC activists had been abducted on 9 September 1991, allegedly after an ambush by members of the Kwazulu police. The bodies of Mr. Nhleko and Boy Duba were found on 13 September 1991. The third person reportedly died in hospital and the fourth was alleged to be in hiding, because he feared for his life.

483. According to further information, Solomon Nhleko had also been the subject of a previous attack. On 12 May 1990, he was abducted by members of the South African Defence Force with the help of Amasinyoras members. On that occasion, after searching his house and seizing documents containing complaints by Kwamashu residents to the Kwazulu police against the Amasinyoras, he was reportedly taken in a military vehicle to an area, claimed to be an Amasinyoras stronghold, and beaten up. Later, he was taken to a sugar-cane field where the soldiers reportedly threatened to kill him. In spite of formal charges made by him to the Military Police (who were responsible for investigating complaints against the South African Defence Force), and although he was believed to have formally identified the vehicle in question and the individuals involved, he was informed three months after the event that no prosecution would be instituted. The persons connected with the attack on Mr. Nhleko on 20 October 1991 had reportedly been seen in the vicinity of the hospital where he was convalescing.

484. On 19 November 1991, the Special Rapporteur sent a cable to the Government of South Africa concerning Chechela Machitje, a member of the African National Congress (ANC), who on 19 October 1990 was sentenced to five years' imprisonment under the 1982 Internal Security Act. On 5 September 1991, this sentence was changed, after an appeal hearing, to a five-year suspended sentence. According to the information, from 18 September 1991 until he went into hiding in mid-October, Mr. Machitje is said to have been followed by men in a white Mazda car which reportedly had been seen regularly outside his family home in Thokoza township and outside the home of a close friend. It was reported that the car was owned by a car rental company and rented by a man who, on several occasions in late 1990, had encountered Mr. Machitje and asked about the progress of his court case. It was alleged that one of the occupants of the car was identified as a policeman who had been involved in the arrest and questioning of Mr. Machitje before his 1990 trial; another occupant of the car was identified as a person who had sought out other ANC members. In view of the highly volatile situation in

Thokoza township since the incidents of 8 September and 7 October 1991, fears were expressed that Mr. Machitje might have been a potential victim of assassination.

485. In connection with these two cases, the Special Rapporteur referred to the Principles Relating to the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions and to the fundamental principles embodied in the Universal Declaration of Human Rights which were reiterated in the International Covenant on Civil and Political Rights and in the Declaration and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. He further appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned person and requested information on these measures as well as on the investigation carried out by the authorities in this case.

486. At the time of the present report, no reply had been received from the Government of South Africa.

2. Other cases transmitted to the Government

487. On 18 November 1991, the Special Rapporteur sent a letter to the Government of South Africa transmitting the following allegations he had received concerning extrajudicial executions of civilians:

(a) On 1 January 1991, 35 people reportedly died and 40 others were wounded when gunmen using automatic weapons fired on mourners during a vigil for a slain ANC youth organizer. According to survivors, Inkatha supporters were responsible for the shooting. It was alleged that they were acting with the complicity of the police;

(b) On 27 March 1991, in Alexandra, 20 gunmen reportedly opened fire with automatic weapons on sleeping mourners at a prayer vigil. Survivors of the shooting were allegedly attacked with pangas and knives. At least 15 people were said to have been killed and 18 others wounded. It was alleged that the police did not provide any protection in spite of having received a call for help;

(c) On 12 May 1991, in Kagiso, Johannesburg, at least 25 people were reported to have been killed and 30 others injured when up to 1,000 Zulus carried out a pre-dawn raid on a Xhosa squatter camp outside Kagiso. Allegedly, members of the police had been escorting the raiders towards the camp in armoured personnel carriers;

(d) On 13 September 1990, in Johannesburg, an attack on a commuter train was said to have caused the death of at least 10 people, while 100 were injured. On 25 June 1991, in Soweto, 6 people were reportedly shot and 18 wounded when gunmen opened fire on a crowded commuter train. In both cases, it had been alleged that the gunmen acted with the acquiescence of the Government. Reportedly, charges against the perpetrators of the September 1990 killings were withdrawn after police failed to produce sufficient evidence;

(e) On 22 July 1991, in Kwa Madala township, one man was allegedly hacked to death by more than 300 armed men who attacked residences in the township. Reportedly, police did not make any arrests but instead escorted the attackers back to their hostel;

(f) On 5 May 1991, in Bekkersdal, West Rand, at least two people were said to have been killed and four others injured when 4,000 to 5,000 armed Inkatha supporters started shooting indiscriminately on a squatter camp. Allegedly, policemen stood by without taking any action. After some time, it was reported that they also opened fire on the camp.

488. In the same letter, the Special Rapporteur transmitted to the Government of South Africa the following allegations concerning cases of death in custody in police stations:

(a) Members of the South African police at Welverdiend police station, western Transvaal, had repeatedly been linked with cases of alleged torture and extrajudicial execution of potential witnesses. From January 1990 to April 1991, at least 14 people were reported to have been tortured and/or executed by policemen at Welverdiend;

(b) In December 1990, in Protea police station, members of the Soweto Murder and Robbery Unit of the police were reported to have subjected to torture and executed one man;

(c) In June 1990, in Potgietusburg police station, a teacher and lay preacher reportedly died in custody while in solitary confinement. It was alleged that his death was a result of torture.

489. In addition, the Special Rapporteur transmitted to the Government of South Africa information he had received according to which between January and July 1991 at least 20 ANC activists were extrajudicially executed by members of the officially disbanded Civil Cooperation Bureau (CCB) death squads.

490. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of South Africa to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Sri Lanka

1. Appeals for urgent action

491. On 12 September 1991, the Special Rapporteur sent a cable to the Government of Sri Lanka concerning threats made to the Muslim community of Kattankudi by the Liberation Tigers of Tamil Eelam (LTTE), a group engaged in an armed conflict with Sri Lankan security forces in the north-eastern part of the country. According to the information, in mid-July 1991 in Kattankudi, a Muslim town in eastern Sri Lanka, the LTTE put up posters ordering people to leave "or face the consequences". The same organization had allegedly also sent letters to local mosques threatening members of the Muslim community with

death if they did not leave the area. On 15 August 1991, in apparent retaliation for those threats, several Muslim Home Guards reportedly arrested four Tamil youths from Manchentoduvai. Reportedly, the youths were beaten up and subsequently released after being told to deliver to the entire community the message to vacate the area within 10 days. Since the outbreak of the fighting between Sri Lankan security forces and the LTTE in June 1990, tension between the Tamil and Muslim communities in north-eastern Sri Lanka had increased considerably. Reportedly, hundreds of Muslim and Sinhalese villagers had been killed in the province during 1990.

492. In that connection, the Special Rapporteur referred to paragraph 4 of the Principles Relating to the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions adopted by the Economic and Social Council in resolution 1989/65 of 24 May 1989, to the principles embodied in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. He also referred to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the annex thereto.

493. On 4 October 1991, the Special Rapporteur sent a cable to the Government of Sri Lanka concerning harassment and threats made against the life and physical integrity of D.H. Weerasiri, attorney-at-law, by the police. According to the information, D.H. Weerasiri was requested by the Bar Association of Sri Lanka to appear on behalf of petitioners who, among other things, had been charged with robbery. Mr. Weerasiri was allegedly repeatedly requested by the police not to appear in these cases, and his life was threatened. In late August 1991, he was assaulted on the way to his office. Reportedly, when Mr. Weerasiri attempted formally to complain of the incident at the Homagama Police Station, he was ignored. In consequence of the above, the Bar Association of Sri Lanka was undertaking to have Mr. Weerasiri relocated.

494. In that connection, the Special Rapporteur referred to paragraph 4 of the Principles Relating to the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, to the principles embodied in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights.

495. In connection with these two cases, the Special Rapporteur appealed to the Government of Sri Lanka to take all measures at its disposal to protect the life and physical integrity of the communities and persons concerned and requested information on those measures, as well as on the investigation carried out by the authorities in those cases.

496. At the time of the present report, no reply had been received from the Government of Sri Lanka.

2. Other cases transmitted by the Special Rapporteur

497. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Sri Lanka transmitting 18 cases of alleged summary or arbitrary executions. One of the allegations concerned five persons who had died as a result of torture by police, one in Kandy district in August 1990 and the

other four in the Amparai district on 14 January 1991. According to information received, the LTTE had reportedly taken effective control of the north-eastern part of the country following the withdrawal of the Indian Peace-keeping Forces from Sri Lanka in March 1990; heavy fighting was said to have resumed between government forces and the LTTE which resulted in a large number of deaths among the civilian population in Jaffna, Trincomalee, Batticaloa and Amparai.

498. It was reported that more than 185 people were killed in Batticaloa district on the night of 12 June 1991 when the security forces entered the villages of Ampilanthurai and Mahiladithiru near Kokkoddichobi and allegedly massacred Tamil civilians including women, children and babies, and set many houses on fire.

499. Reprisal killings of Tamil civilians by Muslim groups in the east, some of whom were allegedly armed by the Government, were reported after hundreds of Muslim civilians were killed, allegedly by the LTTE. Since the outbreak of violence, tension between the Tamil and Muslim communities in the north-eastern province has increased considerably.

500. It was also reported that 30 people were allegedly killed in Jappna district as a result of bombing raids by the Sri Lankan Air Force between 13 January and 4 April 1991.

501. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Sri Lanka to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Government reply

502. On 18 December 1991, a reply was received from the Government of Sri Lanka to the Special Rapporteur's letter of 8 November 1991. According to the reply, the Government stated that it had decided to review the command structure of the security forces and to put the Home Guards under strict control. In addition, it was stated in an aide memoire that the following measures had been taken to address human rights concerns:

(a) A five-member Independent Commission of Inquiry had been appointed to examine all aspects of alleged abuses of human rights;

(b) A Human Task Force had been appointed to maintain a register of detainees and establish the identity of all missing persons;

(c) Following an All-Party Conference, legislation had been tabled in Parliament to enlarge the extent of fundamental rights already enshrined in the Constitution;

(d) With regard to those taken into custody on suspicion of subversive activity, the Government was working towards releasing those against whom there was no evidence of illegal activities. The Yayaleth Committee had been set up to expedite this process;

(e) The President had appointed a commission of three members to investigate the incidents that had taken place during the night of 12 June 1991.

In addition, the Government of Sri Lanka stated that it attached the highest importance to responding to allegations forwarded by United Nations human rights mechanisms and that it would continue to cooperate fully with the Centre for Human Rights.

Sudan

1. Appeals for urgent action

503. On 4 February 1991, the Special Rapporteur sent a cable to the Government of Sudan concerning three persons, Hani Shakour, Siddik Mohamed Ahmed and Dawina Mohamed Dawina, who had been sentenced to death by special courts in Khartoum. It was further alleged that their trials may have failed to satisfy international minimum standards and that the three risked imminent execution. According to the information received, Mr. Shakour was charged with contravening the new currency regulations, apparently, he was arrested in May 1990 and sentenced on 21 January 1991. Mr. Ahmed was convicted on charges of black-marketeering and sentenced to death in mid-January 1991. Mr. Dawina was convicted on charges of murder arising out of an incident in which three members of the security forces were killed in February 1989; he was sentenced to death on 30 September 1990. It was unclear whether the three men had been allowed full legal representation at their trials. It was alleged that the men had not been allowed to appeal to a higher court against either their convictions or their sentences. It appeared that since the new military governing body, the National Salvation Military Command Council (NSRCC), had taken power in June 1989, prisoners sentenced to death were not allowed proper legal representation at their trials, or to appeal to a higher court.

504. In this connection, the Special Rapporteur referred to article 14 of the International Covenant on Civil and Political Rights which sets forth procedural and substantive safeguards designed to protect the rights of the accused prior to and during the trial, and to ensure that the defendant is accorded certain post-trial rights, including the right to have the conviction or sentence reviewed by a higher tribunal. In addition, he referred to paragraphs 4, 5, 6 and 7 of the Safeguards guaranteeing protection of the rights of those facing the death penalty approved by the Economic and Social Council in its resolution 1984/50 of 24 May 1984 which reinforce the obligation of States to respect article 14 of the Covenant. The Special Rapporteur appealed to the Government of Sudan to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons and requested information on those measures, as well as on the investigation carried out by the authorities in those cases.

505. On 21 September 1991, the Special Rapporteur sent a cable to the Government of Sudan concerning the alleged imminent execution of a number of persons. The names of the 43 known persons were given as follows: Col. Ahmed Khalid (army officer), Col. Yahya Gamal (army officer), Col. Shaa El-Din Awad el Karim (army officer), Col. El-Fatih Salih Humaida (army officer), Col. Abdalla Mohamed El-Amin (army officer),

Col. Abdel Karim Kafi (army officer), Lt. Col. Adil Mohamed El-Haj (army officer), Lt. Col. Hamid El-Tayed (army officer), Lt. Col. Khalid Fadl el-seed (army officer), Lt. Col. Mohamed Hamadto (army officer), Maj. Gen. Mohamed Osman Abdalla Halifi (army officer, retd), Gen. Tijani Ali Salih (army officer, retd), Brig. Mohamed Ahmed El-Rayah (army officer, retd), Brig. Sayid Hamouda (army officer, retd), Brig. Ali Tijani Ali (army officer, retd), Col. Mustafa El-Tinai (army officer, retd), Abdelrahman Abdalla Nugudalla (Former Minister of Religious Affairs; Member of the dissolved Parliament; Member of the Political Bureau of the Umma Party), Abdel Latif El-Gimaibi (member of the Youth Organization of the Umma Party), Omer Mohamed Omer (Member of the Umma Party), Mutassim El-Goreishi (businessman), Gen. El-Sheik Mustafa (army officer, retd), Gen. El-Rashid Abdallah (army officer, retd), Gen. Mirghani Babiker Ali (army officer, retd), Capt. Faisal Kaballo (army officer, retd) Lt. Col. Shakir Ali El-Tahir (army officer), Lt. Col. Ahmed Ali Maghoub (army officer), Lt. Col. El-Baghir Omar Ahmed (army officer), Lt. Col. Mohamed Sir El-Khatim (army officer), Brig. Moatasim El-Rayah Obeid (army officer), Col. Abu el-Gassim Hassan Bilil (army officer), Col. Omar Mohamed Abdallah (army officer), Gen. Ali Hussein Ali (army officer, retd), Gen. Ahmed El-Bashir Ahmed (army officer, retd), Col. Mohamed Hashim Mahmoud (army officer, retd), Brig. Mohamed El-Busra Salim (army officer, retd), Air Cdre. Ramadan Hamad (air force officer, retd), Col. Sidiq Abdel Asiz (army officer, retd), Lt. Col. Abdel Marouf El-Dissougi (army officer, retd), Brig. Abdel Salman Sir El-Khatim (army officer, retd), Brig. Abdel Hafiz Khidir Hafzalla (army officer, retd), Gen. (Dr.) Mohamed Bilal (army officer, retd), Admiral Tijani Ali Saleh (naval officer, retd), Brig. Sharaf El-Din Ali Malik (army officer, retd).

506. Among an unknown number of other present and former soldiers and civilians, the following were included: Alsheukh Mustafa (army officer, retd), Rashid Abdallah (army officer, retd), Mairghani Ali Betty (army officer, retd), Beshir Omer (member of the Umma Party; Former Minister of Finance; former Minister of Information; former member of Parliament; lecturer at University of Kharthoum), Omer Nour Al-Di'En (Former Minister of Finance; former Minister of Agriculture; former member of Parliament; Member of the Politburo of the Umma Party), Bakri Adiel (former Minister of Energy; Member of the Politburo of the Umma Party), Salah Abdel Salam (former Minister for Presidential Affairs; former Member of Parliament; Member of the Politburo of the Umma Party), Ahmed Bilal (former State Minister for Health; former Member of Parliament; Member of the Politburo of the DUP), Mairghani Abdelrahman Al-Haij Suleiman (former Minister of Trade; former Member of Parliament; Member of the Politburo of the DUP).

507. According to the information, on or about 20 August 1991, arrests of the above-cited army officers, retired army officers and civilians, together with an unknown number of other soldiers and civilians took place in and around Khartoum. There was no indication that formal charges had been brought against those arrested; they were thought to be held incommunicado at the General Military Headquarters, the Security Headquarters and Kober Prison in Khartoum; at least one of the detainees, Colonel Mustafa El-Tinai, had been tortured with the aim of securing "information" which may be used to arrest other individuals. Persons sentenced to death since the 1989 coup had allegedly not enjoyed their right to the protection guaranteed them under

international minimum standards for fair trial. It appeared that defendants had been permitted neither proper legal representation, nor the right to appeal their convictions to a higher court.

508. Such alleged deficiencies were the subject of the Special Rapporteur's communications of 7 May and 26 July 1990 concerning the execution of more than 28 senior army officers arrested in late April 1990 (E/CN.4/1991/36, paras. 487-490). Therein, the Special Rapporteur transmitted information concerning the trial and execution of the officers, noting that, reportedly, the defendants' trial had lasted two hours, that the defendants were not allowed legal counsel, that they were not allowed to appeal either their convictions or their sentences to a higher court and that they were executed within 24 hours of sentencing. At that time, the Special Rapporteur expressed his concern that the aforementioned executions had taken place following legal proceedings which may have failed to satisfy international minimum standards for fair trial, as well as his expectation that the Government would ensure that such standards be respected in future.

509. Since that time, the Special Rapporteur had received additional information indicating that two of the senior retired officers who had been executed, Major-General Osman Idriss al-Bolol and Colonel Mohamed Ahmad Ghassim, had been arrested at least three days prior to the alleged coup attempt. These persons, along with another, Major-General Khalid al-Zein Ali, reportedly had been executed on 20 April 1990, that is to say, before both the alleged coup attempt and the trial in question.

510. The Special Rapporteur acknowledged that, on 21 May 1990, the Government of Sudan had responded to his communication of 7 May 1990 stating, among other things, that the 28 persons in question had been executed by firing squad following a trial "by a competent high military court and that the judgment of this court was fair and could not be subject to an appeal in conformity with the stipulations of the relevant military laws" (E/CN.4/1991/36, para. 493). This suggested, among other things, that provision for a Military Court of Appeal is precatory and, thus, in contravention of prevailing international minimum standards for fair trial.

511. On 14 February 1991, the Government responded to the Special Rapporteur's communication of 26 July 1990 which noted, among other things, the legal basis of the charges against the 28 active and retired army officers and the rules of procedure governing the military tribunal in which their trial took place.

512. In this connection and taking into account the above-mentioned responses furnished by way of reply to allegations submitted to the Government, the characteristics of which were not dissimilar to the cases already communicated, the Special Rapporteur referred to the fundamental principles set forth in the Universal Declaration of Human Rights and reiterated in the International Covenant on Civil and Political Rights and in the Declaration and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. He noted that these principles included the right to be presumed innocent until proven guilty according to law, which right was to be understood as ensuring, inter alia, that a charge has been proven beyond a reasonable doubt and that all public authorities refrain from prejudging the outcome of a trial, and the right to effective legal representation.

513. In addition, the Special Rapporteur referred to article 6 of the Declaration on the Protection of all Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to the Standard Minimum Rules for the Treatment of Prisoners adopted by the First United Nations Congress on the Prevention of Crime and Treatment of Offenders, in 1955, and approved by the Economic and Social Council in its resolutions 663 (XXIV) C of 31 July 1957 and 2076 (LXII) of 13 May 1977. He also referred to paragraphs 4, 5 and 6 of the Safeguards guaranteeing the protection of the rights of those facing the death penalty, approved by the Economic and Social Council in its resolution 1984/50 of 25 May 1984, as well as to the implementation of those Safeguards, approved by the Economic and Social Council in its resolution 1989/64 of 24 May 1989. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons and requested information on those measures as well as on the investigation carried out by the authorities in those cases.

Government replies

514. On 12 February 1991, a reply was received from the Government of Sudan to the Special Rapporteur's letter of 26 July 1990 (see E/CN.4/1991/36, para. 490) transmitting details of the procedure under which the retired army officers named by the Special Rapporteur had been tried, as well as information concerning the state of emergency in the country and on the Special Courts and the administation of justice.

515. On 18 October 1991, a reply was received from the Government of Sudan to the Special Rapporteur's cable of 21 September 1991, regarding allegations of arrests of a number of army officers and civilians in and around Khartoum on about 20 August 1991. According to this reply, the preliminary inquiry had brought the following charges against the aforementioned detainees: causing or conspiring with other individuals to facilitate mutiny against legitimate authority, and waging or abetting war against the Government. The Government of Sudan refuted allegations that those detained had been held incommunicado; that one of the detainees, Col. Mustafa El-Tinai, had been tortured and that since the advent of the Revolution for the National Salvation in the Sudan in 1989, persons convicted and sentenced to death had not enjoyed the right of protection guaranteed to them under international standards for fair trial. The Government of Sudan stated its commitment to the strict observance of the principles relating to international minimum standards for fair trial which were enshrined in its laws.

516. On 23 December 1991, a further reply was received from the Government of Sudan regarding the allegations of arrests of army officers and civilians: on 2 December 1991, sentence was passed on 50 active and retired army officers and some politicians; despite rumours that the plotters had been tortured and that some of them had been killed, they appeared fit and healthy in front of television cameras for a one-hour broadcast of their confessions. Most of them including Mr. Abdelrahman Abdalla Nugudalla, the former Umma Party Minister, thanked the court for its patience and justice. Twenty five of the plotters including Mr. Nugudalla and Colonel Ahmed Khalid, leader of the foiled coup were sentenced to death. However, the President and Commander-in-Chief of the armed forces applied his prerogative under the rules

of criminal procedures and commuted the death sentences to life imprisonment and reduced all the other prison sentences to shorter terms. Seven officers were acquitted.

2. Other cases transmitted by the Special Rapporteur

517. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Sudan transmitting the following information:

(a) One of the allegations concerned the death in custody, allegedly as a result of torture, of a prisoner in Al-Bakr Al-Ahmar, Port Sudan, in late May 1991: the victim had been arrested together with his brother by members of the Port Sudan Security Forces, allegedly because their cousin, a supporter of the banned Democratic Unionist Party (DUP), had escaped from prison;

(b) In late May 1990, four men, including two Roman Catholic teachers were allegedly arrested by Government troops in Meridi (southern Sudan), beaten, soaked in petrol and set on fire: one man was reported to have died; it was alleged that no investigation has been carried out into this matter;

(c) On 23 January 1991, an employee of the Ministry of Education died in Al-Khartoum Koser Prison: suffering from several diseases, he allegedly had received inadequate medical care while in prison.

518. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Sudan to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Government reply

519. On 20 December 1991, a reply was received from the Government of Sudan to the Special Rapporteur's letter of 8 November 1991 stating that the cases transmitted had been brought to the attention of the authorities.

Suriname

1. Appeals for urgent action

520. During 1991, no appeals for urgent actions were sent by the Special Rapporteur.

2. Other cases transmitted by the Special Rapporteur

521. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Suriname transmitting allegations concerning the death of a police inspector near the military headquarters in Free Zeelandia on 4 August 1990. According to the information received, the victim had reportedly directed a number of investigations into crimes involving military personnel, and at the time of his death he was said to have been investigating charges that senior military officers were engaged in cocaine trafficking. It was alleged that members of the military were responsible for his killing.

The Police Officer's Union reportedly pressed the Government to investigate the case but, according to the information received, no results had been made public.

522. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Suriname to provide him with information on the above-mentioned case and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Thailand

1. Appeals for urgent action

523. On 4 June 1991, the Special Rapporteur sent a cable to the Government of Thailand concerning the possible deportation of asylum-seekers from Myanmar living in the border area and who were thought to risk extrajudicial execution, torture or arbitrary detention upon their return. According to the information, on 20 and 21 May 1991, Thai military authorities, Task Force 34, headquartered in Mae Sot, Tak Province, announced plans to deport between 15,000 and 20,000 so-called "illegal immigrants" from Myanmar by the end of May. The same authorities also announced that no more asylum-seekers or others from Myanmar would be allowed to enter Thailand "illegally". Reportedly, the deportation was to be carried out by authorities of Tak Province, assisted by police and military forces. The deportation exercise was expected to commence soon and to be completed quickly. The majority of those to be deported allegedly had come to Thailand illegally to seek work. However, it was reported that one Task Force 34 officer asserted that student political activists who had fled Myanmar to escape repression by Myanmar's ruling State Law and Order Restoration Council (SLORC) would also be rounded up and sent back across the border. Reportedly, student activists and "illegal immigrants" who were members of Myanmar's ethnic minority groups would not be handed over to SLORC authorities but would instead be deported to Myanmar territory not under its control, such as areas held by the insurgent Karen Nations Union. Recently, those areas had come under attack by SLORC troops as a consequence of which thousands of people had fled into Thailand. It appeared that those recently arriving in Thailand from Myanmar were also to be deported.

524. The closure of the border would prevent people from escaping to Thailand in the event of a SLORC attack against the remaining territory under insurgent control. Since September 1988, when SLORC took power, thousands of political activists and others had fled into Thailand from Myanmar to escape large-scale human rights violations by SLORC. Many of those threatened with deportation and denial of entry to Thailand allegedly risked extrajudicial execution, torture or arbitrary detention for their non-violent political activities if they fell into the hands of SLORC.

525. In that connection, the Special Rapporteur referred to the fundamental principle of non-refoulement and requested that such people should be given an opportunity to contact a representative of the United Nations High Commissioner for Refugees (UNHCR). He also referred to articles 3, 7 and 14 of the Universal Declaration of Human Rights. The Special Rapporteur appealed

to the Government of Thailand to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons and requested information on those measures, as well as on the investigation carried out by the authorities in those cases.

526. At the time of preparation of the present report, no reply had been received from the Government of Thailand.

Togo

1. Appeal for urgent action

527. On 9 October 1991 the Special Rapporteur sent a cable to the Togolese Government concerning the persons who had allegedly been killed and wounded by the security forces during demonstrations at Lomé. According to the information received, on 8 September 1991, unarmed civilians were said to have gathered in the capital and the security forces had used excessive force against the crowd in order to disperse it, thus causing the death of at least seven persons and wounding others.

528. In this connection, the Special Rapporteur referred to paragraphs 4, 5, 9 and 10 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which state that the amount of force used should be in proportion to the objective to be achieved. This concept falls under the heading of the basic principle enunciated in article 3 of the Universal Declaration of Human Rights and article 6 of the International Covenant on Civil and Political Rights. Moreover, referring to paragraphs 9 to 20 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions and on methods of effectively investigating such executions, the Special Rapporteur urged the Togolese Government to take all measures at its disposal in order to protect the life and physical integrity of the demonstrators and requested information on those measures as well as on the investigation carried out by the competent authorities in those cases.

529. No reply had been received from the Togolese Government at the time this report was prepared.

2. Other cases transmitted by the Special Rapporteur

530. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Togo transmitting four cases of alleged summary or arbitrary execution. They concerned victims of unrest and anti-Government protest that occurred in Lomé in 1991: reportedly, one 12-year-old boy died, a policeman and six other persons were wounded when trucks and military jeeps entered into the crowd of protesters on 16 March 1991; more than 22 bodies of young people were said to have been recovered from the lagune in Lomé on 11 April 1991. They are believed to be bodies of protesters allegedly killed by the Armed Forces. Two young men were also reported to have been extrajudicially executed by members of the Security Forces on 5 April 1991, when they tried to topple a statue of President Gnassingbé Eyadema. Also during the riots, a human rights and pro-democracy activist was subjected to serious threats,

allegedly by members of the Security Service: on 16 March 1991, his two cars were burnt, his home was vandalized and burnt; his wife and one cousin were severely beaten.

531. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Togo to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Trinidad and Tobago

1. Appeals for urgent action

532. During 1991, no appeals for urgent action were sent by the Special Rapporteur.

2. Other cases transmitted by the Special Rapporteur

533. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Trinidad and Tobago transmitting information he had received concerning the alleged extrajudicial execution, on 15 August 1990, at Camp Fleur Neighbourhood, of a young man, the son of the leader of the Jamaat Al Muslimeen movement, who was reportedly shot by the police at his mother's home. The Jamaat Al Muslimeen is said to be the organization which, on 27 July 1990, invaded the Parliament of Trinidad and Tobago and held the prime minister, cabinet ministers and other parliamentarians hostages, calling upon the Government to hold general elections. The Government negotiated with the group and they were also reportedly granted a presidential amnesty in respect of the offences they had committed. According to information received, an inquiry into the above-mentioned case had been initiated by a coroner sitting without a jury; no official results of the inquiry had so far been published.

534. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Trinidad and Tobago to provide him with information on the above-mentioned case and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Tunisia

1. Appeal for urgent action

535. On 18 January 1991, the Special Rapporteur sent a cable to the Tunisian Government concerning Dali Laamari, 59 years of age, former member of the Tunisian diplomatic corps, who was reportedly found guilty of high treason by a criminal court and sentenced to death on 25 December 1990. On 28 December 1990, the Court of Cassation was said to have confirmed the sentence. According to information received, Mr. Laamari's trial allegedly lasted one day and was held in camera; the condemned man, held in secret after his arrest on 16 October 1990, was reportedly tortured and subjected to ill-treatment. Furthermore, it is said that Mr. Laamari was not allowed to see his lawyer during the first two weeks of his detention.

536. In this connection, the Special Rapporteur referred to article 14 of the International Covenant on Civil and Political Rights, which has been ratified by Tunisia, and Economic and Social Council resolution 1984/50 of 25 May 1984 on safeguards guaranteeing protection of the rights of those facing the death penalty. As fears had been expressed concerning Mr. Laamari's imminent execution, the Special Rapporteur urged the Tunisian Government to take all measures at its disposal to protect his life and physical integrity and requested information on those measures as well as on the investigation carried out by the competent authorities in that case.

Government replies

537. On 12 February 1991, the Government of Tunisia replied to the Special Rapporteur's letter of 28 November 1990 (see E/CN.4/36, para. 499) and cable of 18 January 1991 concerning, respectively, Hédi Boutaieb and Dali Laamari.

538. It was stated that, on 3 April 1990, Mr. Boutaieb, who was a conscript undergoing basic training, had a fit of hysterics and shouted loudly "I am the awaited prophet"; a comrade, private Qamal bin Omar Salama tried to calm him down, but to no avail. Taking advantage of his group being engaged in clearing the barracks, he slipped out. His absence was noticed around mid-day. Search operations inside and outside the barracks began. On 11 April 1990, his body was found by border guards in the bed of a dry wadi, at a location 4 km away from the barracks near the Tunisian-Libyan border: the corpse could not be immediately identified because of its state of decomposition and because the deceased had got rid of his uniform; however, fingerprints proved the corpse to be that of Private Hédi Boutaieb. According to the autopsy, the body showed no traces of violence nor traces of poisoning; because of the decomposition of the body, the cause of death could not be determined positively. However, the absence of water in the stomach and urine in the bladder, and in view of the dryness of the skin, it was be concluded that death was caused by thirst and exposure to the heat of the sun and not by violence or poisoning.

539. With respect to the case of Dali Laamari, the Tunisian Government indicated that, after Mr. Laamari, Minister Plenipotentiary in the Ministry of Foreign Affairs had been accused of a breach of external State security by the Government Procurator of the Republic of Tunisia, an information was laid before the senior examining magistrate. In the course of the investigation, the accused had enjoyed all the guarantees necessary for his defence; during his first appearance, he had been informed that he could refrain from making a statement and that he had the right to choose a counsel. During his detention, the accused had been able to communicate with the lawyers he had appointed. After the investigation, the examining magistrate, considering that the acts of which he stood accused constituted the crime of treason provided for and punishable under articles 60 et. seq. of the Penal Code, had ordered the transfer of the proceedings to the Indictment Division of 29 November 1990. The latter had decided to refer the accused on the same grounds and for the same crime to the Criminal Court of Tunis. The accused, assisted by his two lawyers, had appeared before the Criminal Court. Pursuant to article 143 of the Code of Criminal Procedure, proceedings are public unless a public hearing constitutes a danger for public order or morale. In

the case in question, the Court decided that the trial would be held in camera. Sentenced to death, Mr.Laamari had appealed, but his appeal was rejected by the Court of Cassation on 26 December 1990. The Tunisian Government nevertheless indicated subsequently that President Zine El-Abidine Ben Ali had, on 9 October 1991, commuted his death sentence to one of life imprisonment.

2. Other cases transmitted by the Special Rapporteur

540. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Tunisia transmitting three cases. The first two concerned the death in custody of Abdelaziz Ben Hamuda Mahwachi and Abderraouf Laaribi, allegedly as a result of torture during prolonged preventive detention in March and April 1991. In both cases, the families were informed that the victims had died of a heart attack; reportedly, the families were not provided with a death certificate, an autopsy report or other medical certificate indicating the cause of death, and were not authorized to see the bodies.

541. The third case regarded students who reportedly died during violent clashes with members of security forces which had occured in Tunisia throughout the month of May 1991. According to information received, on 5 May 1991, five students, members of the General Union of Tunisian Students, died during a violent Islamic fundamentalist student protest.

542. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Tunisia to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Government reply

543. On 17 December 1991 the Tunisian Government replied to the Special Rapporteur's letter of 8 November 1991. It emphasized that the information referred to was fallacious and had been deliberately distorted and that, in point of fact, it constituted an attempt by certain quarters hostile to the Government to make improper use of human rights procedures. The Tunisian Government also indicated that, as a result of allegations of degrading treatment and periods of detention having been exceeded, the President of the Republic had instructed the Chairman of the Higher Committee for Human Rights and Fundamental Freedoms to set up a Committee of Inquiry to investigate allegations of human rights violations. This Committee, which was established on 25 June 1991 and consists of six independent members, namely, two lawyers, two physicians, one representative of the Tunisian League for Human Rights and one representative of the Tunisian Red Crescent, had been completely free to conduct its inquiries in all places of detention and with the families of detainees, and had made its conclusions and recommendations public. Its inquiries and conclusions have publicly confirmed that no detainees were held in secret in Tunisia. At most the Committee referred to the "complaints of families which for a time do not know where their relatives are being detained"; judicial investigations have indicated that most of the persons in question were on the run. Sources of information that were far from objective took advantage of such situations to create confusion between

the time such persons had taken flight and the period of custody. The Committee also identified certain abuses attributable to the acts of individuals and not in accordance with State policy; it mentioned that such abuses had been investigated and that disciplinary action had been taken against those responsible. Judicial investigations of certain abuses had been embarked upon even before the Committee of Inquirty had set about its task.

544. The following information has been transmitted concerning the cases referred to:

(a) Abdelaziz Ben Hamuda Mahwachi. Available information concerning this person reveals that he has died; a judicial investigation is being conducted to determine the cause of death;

(b) Abderraouf Laaribi. He has neither been arrested nor placed in police custody; an inquiry is under way to determine the cause of his death;

(c) Case of five students killed. These allegations do not contain sufficient information that could provide the services concerned with guidance in their investigation (complete absence of names).

545. The Tunisian Government has also transmitted a brief account of the measures taken to limit the period of police custody and pre-trial detention, to prevent any kind of inhuman and degrading treatment and to punish any breaches or abuses in this respect.

Turkey

1. Appeal for urgent action

546. On 11 October 1991, the Special Rapporteur sent a cable to the Government of Turkey concerning allegations of harassment and threats against the lives and physical integrity of Zubeyir Aydar, a lawyer, Deputy President of the Turkish Human Rights Association (HRA) and a member of the General Executive Committee of the People's Labour Party (HEP), his wife, Evin Aydar, a journalist and Chairman of the HRA branch office in Siirt, as well as against other persons, some of whom are associated with the Turkish Human Rights Association. According to the information, Mr. Aydar reportedly began to receive death threats early in 1989 after researching and publishing details of the existence of the so-called "Butcher's River" near Siirt, where victims of extrajudicial executions were allegedly disposed. It was reported that local military commanders had threatened Mr Aydar saying that his body would one day be found in the river. Following the revelation by Mr. Aydar that the deaths of three detainees had allegedly died under torture in Findik, Siirt province, he again received a series of death threats. In September of 1989, he was exiled to Malatya under emergency legislation; a second order for his exile issued in July 1990 was cancelled. Because of her work as an investigative journalist and her position with HRA, the safety of Ms. Aydar also was said to be at considerable risk.

547. In May 1991, Mr. Abdulkerim Celek of Tasli village near Sirvan was allegedly killed by members of the Kurdish Workers' Party (PKK). His relatives were visited by the regimental commander of the provincial

gendarmerie who allegedly told them that he had been killed by Mr. Aydar. At midnight on 5 July 1991, Mr. Vedat Aydin, President of HEP in Diyarbakir and a member of HRA, was taken from his home by several men who claimed to be police officers. Three days later, his body was found near a busy motorway approximately 60 km from Diyarbakir. Reportedly, it bore multiple bullet wounds and traces of torture. Police were reported as telling a detainee in Siirt that they had killed Vedat Aydin and that, within a month, they would kill Zubeyir Aydar.

548. In this connection, the Special Rapporteur referred to paragraph 4 of the Principles Relating to the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions adopted by the Economic and Social Council in resolution 1989/65 of 24 May 1989, to the principles embodied in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. The Special Rapporteur appealed to the Government of Turkey to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons and requested information on those measures, as well as on the investigation carried out by the authorities in those cases.

Government reply

549. On 20 November 1991, a reply was received from the Government of Turkey to the Special Rapporteur's cable of 11 October 1991 stating that after the assassination of Vedat Aydin, President of the Diyarbakir section of the Peoples's Labour Party (HEP), by persons disguised as policemen, Zubeyir Aydar had knowingly propagated information claiming that he faced a similar danger. It should be noted that Mr. Aydar was a candidate in the general election of 20 October 1991; moreover, he did not inform the authorities of Siirt province that he had received any death threat.

2. Other cases transmitted by the Special Rapporteur

550. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Turkey transmitting allegations concerning death threats allegedly issued by members of the Turkish army and police. The circumstances surrounding these allegations were as follows:

(a) On several occasions during 1991, members of human rights organizations and individual human rights activists in Van and Siirt City and a lawyer from Ankara were said to have received death threats, allegedly by agents of the political police;

(b) Three villagers, one at Gokeedug on 11 October 1990, one in Kersafe (during 1991, exact date unknown) and the third in Mecelidive on 27 May 1991 were reportedly threatened with execution by members of the Turkish military;

(c) Also during 1991, a student in Brisa and another man in Hasankeyf were threatened, allegedly while being tortured by members of the political police of the respective districts;

(d) In June 1991, a bomb reportedly exploded in the office of the correspondant of a news magazine in Diyarbakir. It was alleged that the bomb had been sent there by members of the Turkish political police;

(e) On 2 July 1991, in Batman, a bomb reportedly exploded in the car of a member of a human rights association; the man and his 10-year-old son were said to have been severely wounded. It was alleged that the bomb was a military explosive and had been put into the car by members of the political police.

551. In the same letter of 18 November 1991, the Special Rapporteur also transmitted to the Government of Turkey information he had received concerning deaths which allegedly occurred as a result of torture and other cases of extrajudicial execution:

(a) From 31 January 1991 to 12 July 1991, eight people were said to have died in preventive detention, allegedly after having been tortured by police officers in different police stations in Ankara, Alik, Istanbul, Siirt, Diyarbakir and Cizre;

(b) On 28 May 1991, five farmers were reportedly tortured and extrajudicially executed in Pazarcik, presumably by members of the Turkish army;

(c) In Tatvan, in May 1991, two members of the People's Labour Party were reportedly killed by paramilitary groups, allegedly operating with government acquiescence;

(d) On 28 June 1991, two farmers of Siirt were reported to have been killed outside their village by members of the Turkish army;

(e) On 3 July 1991, two Kurds were reportedly killed by a police commissioner in Avcilar, Istanbul, allegedly for singing and speaking in Kurdish;

(f) During June and July 1991, three people were said to have been killed in front of their houses in Mardin and Diyarbakir, and one other in Makkari when he tried to leave his village, allegedly by members of the army and the political police;

(g) On 8 and 27 July 1991, respectively, three people were found dead after having disappeared in Diyarbakir. It was alleged that they had been abducted and killed by members of the political police;

(h) On 28 June 1991, in Sirnak, Siirt province, five people reportedly died as a result of assault and physical abuses, allegedly perpetrated by members of paramilitary groups condoned by the Turkish army.

552. In addition, in the same letter, the Special Rapporteur transmitted to the Government of Turkey information received according to which three people were allegedly killed during peaceful demonstrations. The first incident was reported to have occurred on 28 February 1991, when two people were shot,

allegedly by members of a "special team" of the police during a demonstration in Sirnak, Siirt province. On 28 April 1991, a 13-year-old boy was reportedly killed during a demonstration in Bingol, allegedly by members of the Army.

553. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Turkey to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Government replies

554. On 18 December 1991 the Turkish Government, replying to the Special Rapporteur's letter of 8 November 1991, provided information on the following cases:

(a) Saddrettin Akbav. Following Mr. Akbay's murder by Nurettin Güzel, Kamil Güzel, Gazi Güzel Hüseyin Bartin and Mehmet Sait Bartin because of animosity, proceedings were initiated before the Hakkari Court of Assize on the basis of an indictment dated 12 August 1991;

(b) Mecit Kaplan. The Administrative Council of the Sub-Prefecture of Tatvan (Bitlis) decided on 3 April 1991 to refer the case of police officer Durmus Ozgül to the Bitlis Court of Assize on the count of murdering Mr. Kaplan during an incident that occurred in the course of a street demonstration at Tatvan on 25 January 1991. Proceedings were under way;

(c) Avni Ongen. The Bitlis government procurator's office stated that there was no official record of any appeal or complaint alleging that Avni Ongen had been murdered; moreover, the Bitlis government procurator's office provided a copy of his civil registry certificate dated 5 December 1991 indicating that Avni Ongen was alive;

(d) Abdullah Okuyucu. The Batman government procurator's office indicated that there was no official record of any appeal or complaint to the effect that Abdullah Okuyucu had been murdered;

(e) Ismail Efe. Proceedings have been initiated before the Agri Court of Assize against Osman Gökdemi, an NCO in the gendarmerie, who was indicted for the murder of Ismail Efe and exceeding his powers. The case was being tried;

(f) Hamit Döner. He was killed by bullets during the skirmish that occurred between him, accompanied by Hakan Teomete, and security forces when he tried to cross the Turco-Iranian border illegally (frontier markers 16-17); his accomplice Hakan Teomete was arrested. The Dogubeyazit government procurator's office which initiated the proceedings decided on 17 January 1991 that it was not competent to deal with the case and transferred the file to the government procurator's office of the Court of National Security at Erzincan;

(g) Uveys Elma. The government procurator's offices of Kütahya, Dursunbey and Tavsanli have not received any appeals or complaints alleging that death threats had been made against Uveys Elma in the street on 11 October 1990;

(h) Ramazan Ferat. A heated exchange took place between Ramazan Ferat and Halil Esenboga about the parking of a car on 7 June 1991 at Sanliurfa; according to the statements made, Halil Esenboga refused to move his car to enable Ramazan Ferat to park. Following the intervention of Zeki Kece and Syit Eren, traffic police officers, Ramazan Ferat and the two police officers came to blows. Proceedings were initiated before the Sanliurfa Criminal Court on the basis of the warrant of 7 June 1991. However, since the two principals had withdrawn their respective complaints, a decision was taken to terminate the action in accordance with articles 460 and 489 of the Penal Code. As a result of the incident that occurred on 7 June 1991, Ramazan Ferat was taken directly to the Sanliurfa Law Courts and proceedings were initiated the same day;

(i) Gülseren Havaci. On the basis of information that suspicious persons were using Mrs. Havaci's apartment, the latter was searched by the Bursa police on 20 May 1991 in the presence of the apartment's owner and the Mayor of Bursa; it was established that Huseyin Isik, presented as Mrs. Havaci's fiancé, was using the apartment, in which two pistols and 14 bullets were found. Mrs. Havaci and Mr. Isik were arrested and placed in police custody on 26 May 1991, the day on which they returned to the apartment. On 27 May 1991 the government procurator's office decided to extend by five days the period of police custody so as to be able to finish questioning them. The Bursa magistrate's court to which they were referred on 31 May 1991 decided on that same day to release Mrs. Havaci, to place Mr. Isik under arrest, and to transfer the file to the government procurator's office of the Court of National Security at Istanbul. The above-mentioned persons have not lodged any complaint or appealed to the Bursa government procurator's office alleging that they had been tortured or subjected to ill-treatment; the government procurator's office considers that the allegation made in this sense is both unjust and insincere;

(j) Mehmet Sen, Süleyman Ascan and Sükrü Cetin. There is no official record of any appeal or complaint by these persons alleging that they had been threatened by Lieutenant Halil Batur;

(k) Nurettin Sevinc. The Pervari government procurator's office has established, on the basis of an extract from a civil registry document dated 5 December 1991, that this person, allegedly murdered on 20 May 1991, was alive;

(l) Murat Argic. As this person's death was caused on 28 April 1991 by the soldier Selim Kurnaz who opened fire in the military precinct of the Bingol brigade, the government procurator's office of Bingol province decided on 30 April 1991, following a preliminary investigation, that it was not competent to deal with the case and transferred the file to the Military Procurator's Office of the 8th Army Corps at Erzincan;

(m) Yakup Kara, Hamit Kara and Hüseyin Babat. As they were proceeding by car from Uludere (Sirnak Province) in the direction of Sirnak, their way was barred by militant members of the terrorist PKK organization, and the five persons in the vehicle were killed by machine-gun fire. The PKK left several communiques at the scene of the crime. After initiating an investigation, the Sirnak government prosecutor's office decided it was not competent to deal with the case and transferred the file to the government procurator's office of the Court of National Security at Diyarbakir;

(n) Mehmet Kilinc. During the night of 28 June 1991, in the course of a skirmish with security forces near the village of Dagkonak (Sirnak Province), Mehmet Kilinc, a member of the illegal PKK organization, accompanied by another person, was killed; several magazines and grenades were found on his body. The Sirnak government procurator's office transferred the file to the Administrative Council of the Province;

(o) Agit Altürk. Mr. Altürk was killed in the course of the attack on 31 July 1991 against the quarters of officials of the Uludere sub-prefecture by the PKK using rockets and automatic weapons. During the skirmish, Mr. Altürk whose house was in the aggressors' line of fire went outside and was struck by their projectiles. The Uludere government procurator's office decided it was not competent to handle the case and the file was transferred to the government procurator's office of the Court of National Security at Diyarbakir;

(p) Salih Kalay and Sehnuz Yorga. On 28 February 1991, gendarmes tried to prevent persons from stealing coal from the Sirnak mines; the thieves reacted by leading their mules in the direction of the gendarmes who fired into the air to disperse them; one bullet severed some electric cables which fell to the earth, electrocuting a soldier. Despite a few warning shots, the crowd, brandishing shovels and pickaxes, charged the gendarmes, forcing them to fire on the mules, thereby killing 20 or 30. As the crowd, armed with shovels and pickaxes, wanted to demonstrate in the street, the security forces tried to explain that demonstrations were illegal. The crowd then began to throw stones at them. One shot was fired into the crowd, which attacked the security forces who then fired a few shots into the air; Mr. Salih Kalay and Mr. Yorga were hit by two bullets and killed. The crowd then broke up and proceeded into the town, where several administrative buildings, including the bank, the school and the hospital were stoned. The crowd dispersed after some of the demands it had addressed to the competent authorities had been satisfied. The Sirnak government procurator's office, which decided it was not competent to handle the case, transferred the file to the Administrative Council of Sirnak Province; however, it considers that dozens of persons would have been killed had the security forces fired intentionally at the crowd. The two persons who were unfortunately hit had very probably been in the forefront of the demonstration;

(q) Nurettin Turgut. Mr. Turgut was arrested for participating in the activities of the terrorist PKK organization. The Van Government Procurator's office transferred the file containing the record of the investigation of his case to the Court of National Security. There is no official record of any appeal or complaint alleging that he had been threatened by the police;

(r) Ibrahim Doner. It was established that Mr. Doner, imam of the village of Kayadelen (Bitlis Province, Hizan Sub-Prefecture), killed himself with his pistol. Following a preliminary investigation, the Hizip government procurator's office reached the conclusion that the letter written by Ibrahim Doner in his own hand just before his death, the statements of witnesses, the autopsy report and the expertise's reports all constituted proof that confirmed the suicide presumption and issued a dismissal order on 12 November 1990;

(s) Idris Can. On the basis of the investigation carried out by the Beykoz government procurator's office (Istanbul) into the murder of Idris Can, the accused, namely, Umit Suekinci, Mehment Cetin and Ozbey Salman were brought before the Court of Assize of Usküdar; proceedings were initiated against them on the basis of an indictment dated 5 August 1991 by the government procurator's office in the same town. The case was being heard.

(t) Kemal Karatay and Ali Haydur Aydogan. The proceedings initiated against Police Commissioner Ilyas Kaya for the murder of Kemal Karatay and Ali Haydar Aydogan by the third Court of Assize of Bakurkoy (Instanbul) on the basis of the indictment by the Government procurator's office of the same town were under way;

(u) Besir Algan. The government procurator's office of Midyat (Mardin Province), following a preliminary investigation into the murder of Besir Algan in the village of Budakli on 21 May 1990 transmitted the file to the Administrative Council of the Mudyat Sub-Prefecture;

(v) Ali Balcin, Ali Soytut, Nasir Göksungur, Mehmet Kartalkanat, Hasan Camkiran, Naci Donat, Mehmet Yürekkirmaz, Yakup Aktas and Mehmet Vural. These persons were suspected of having perpetrated bomb and armed attacks in the separatist cause; after being located in a rural area they responded to the appeals of the security forces by opening fire on them. During the skirmish, the above-mentioned members of the illegal PKK organization were killed. The government procurator's office of Pazarcik (Maras Province), following a preliminary investigation, transmitted the file to the State Court at Malata on 19 June 1991;

(w) Mustafa Ozge and Emire Aldur. The government procurator's office of Pazarcik (Maras Province) has stated that there is no information indicating that these two persons have been killed or that proceedings involving them have been initiated;

(x) Ismail Oral and Hatice Dilek. The Istanbul police went to the domicile of these persons on 19 May 1991; their names and addresses had been discovered among the documents of Barbara Anna Kistler who had been arrested during the searches and investigations carried out in connection with several murders and bomb attacks committed in Istanbul. In the course of an armed clash with security forces, Ismail Oral and Hatice Dilek were captured after they had been wounded; they were taken to a hospital (Haydarpasa Numune Hastanesi), where they died. A search of their apartment carried out after the incident turned up automatic weapons, pistols, grenades, munitions and

empty cartridge cases, as well as several documents belonging to the terrorist TKP-ML/TIKKO organization. The government procurator's office of Kadikoy (Istanbul) decided it was not competent to handle the case and transmitted the file to the government procurator's office of the Court of National Security. The preliminary investigation in respect of the members of the security forces involved was following its course;

(y) Salih Dogan and Ahmet Dogan. Persons whose identity could not be established threw a grenade into the car which was being driven by Ahmet Dogan and in which Salih Dogan was a passenger; Salih Dogan was killed and Ahmet Dogan injured. The government procurator's office of Kiziltepe (Mardin), having decided that it was not competent to handle the case after initiating the investigation, transmitted the file to the Court of National Security of Diyarbakir on 6 November 1991;

(z) Ramazan Arslan. The government procurator's office of Midyat (Mardin Province) is pursuing its investigation of the murder of Ramazan Arsland who was killed with an automatic weapon in front of his house during the night of 13 June 1991. The guilty parties are being sought;

(aa) Ali Turan. There is no record of Ali Turan having been killed;

(ab) Osman Ekinci. It was established on the basis of an autopsy that Osman Ekinci died at Eruh-Serkepki (Sirnak Province) of coronary thrombosis. The government procurator's office of Eruh considered it pointless to carry out an investigation;

(ac) Ahmet Turendi and Mehmet Serif. Suspected of aiding the terrorist PKK organization, Mr. Turendi and Mr. Serif were placed in police custody on 27 July 1991 and 29 July 1991 respectively. The government procurator's office of Batman, after having recorded their statements on 31 July 1991, released them and transmitted the files to the government procurator's office of the Court of National Security at Diyarbakir. These two persons have not lodged any complaint or appeal alleging torture and ill-treatment during the investigation.

555. Supplementary information was received from the Turkish Government concerning the following cases on 19 December 1991:

(a) Ishan Basbügu. It has been determined that Mr. Basbügu committed suicide on 31 January 1991 while he was in police custody. The proceedings initiated against police officers Cüneyt Demir and Osman Yolu, whose negligence was established in this case, were continuing before the 21st Ankara Court of Major Jurisdiction;

(b) Haydar Arman. The proceedings initiated against police officers Bayram Aydemir, Cahit Selekoglu, Mecit Turan and Sahindas, accused of having caused the death of Mr. Arman by striking and wounding him, were continuing before the 1st Court of Assize of Ankara;

(c) Ibrahim Sarica. Mr. Sarica was killed when he disregarded warnings, tried to flee and opened fire on security forces during the searches they carried out on 18 June 1991;

(d) Ali Riza Aydogan. Suspected of having participated in illegal activities, Ali Riza Aydogan had been taken to Beyoglu Police Station (Istanbul); he committed suicide by jumping from the third storey where he had gone to the toilet. Following an investigation, proceedings were initiated against those responsible before the Beyoglu Court of Assize;

(e) Emine Latifeci. Mrs. Latifeci was killed during an armed clash between security forces and terrorists. Investigation of the matter was continuing;

(f) Ramazan Durmaz. Mr. Durmaz was found dead near the village of Dargecit Sarp (Mardin Province) on 30 June 1991. The investigation initiated by the government procurator's office of Midyat was continuing;

(g) Cavidan Kocaacar and Bedii Yarayici. Mr. Yarayici and Mr. Kocaacar were arrested and placed in police custody on 12 June 1991 and 13 June 1991 respectively for having worked for the terrorist Dev-Sol organization. The Court of National Security before which they were brought decided on 28 June 1991 to hold Bedii Yarayici and to release Cavidan Kocaacar;

(h) Yakup Aktas. Yakup Aktas died during his transfer to hospital after he had become indisposed while in police custody;

(i) Mehmet Tevfik Timurtas. Mr. Timurtas was arrested and placed in police custody on 4 January 1991 for having helped the terrorist PKK organization by receiving stolen goods. He fell ill on 4 January 1991 and was transferred to the Sirnak Military Hospital where he died; a diagnosis during the medical examination carried out before his death revealed a heart irregularity;

(j) Necmi Suna and Ummet Suna. Following a preliminary investigation carried out on the basis of a complaint alleging that Necmi Suna and Ummet Suna had been tortured while in police custody, the file was transmitted by the government procurator's office to the Ankara Prefecture.

556. Supplementary information was received from the Turkish Government concerning the following cases on 23 December 1991:

(a) Mustafa Tan. The investigation initiated by the government procurator's office of Diyarbakir into the death of Mustafa Tan was continuing;

(b) Hasan Hüseyin Emer. The investigation initiated by the government procurator's office of Diyarbakir in connection with an explosive thrown into Hasan Hüseyin Emer's office was continuing.

Uganda

1. Appeal for urgent action

557. On 17 May 1991, the Special Rapporteur sent a cable to the Government of Uganda concerning the extrajudicial execution of over 70 persons in the south of Kitgum district. According to the information, on 10 April 1991, army units operating in the areas of Atang and Acholibur in the south of Kitgum district reportedly detained several hundred men and women, assembling them at the homestead of an alleged rebel commander. Most of the women were threatened with execution but were subsequently released; however, two women, Santa Achero and another whose name is not known, who had been living with the insurgents apparently after having been abducted by them, were reported to have been executed extrajudicially. In the same areas, men were detained and were reportedly questioned some distance away from the homestead in groups of six. Several were released, but it was reported that as many as 38 persons were executed extrajudicially: among these were Santo Alero, a leader of the local community, his son Ochieng and a farmer called Modesto Agaba. In addition, it was reported that government troops were responsible for the deaths of at least 33 civilian prisoners during operations in the north of Kitgum district during the first week of April. It was also reported that due to the context of armed insurgency in parts of the country, many incidents of extrajudicial execution of prisoners and unarmed civilians had occurred, for which responsibility lay with government armed forces.

558. In this connection, the Special Rapporteur referred to the fundamental principles embodied in article 3 of the Universal Declaration of Human Rights and article 9 of the International Covenant on Civil and Political Rights and to the Principles Relating to the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions adopted by the Economic and Social Council in resolution 1989/65 of 24 May 1989. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and physical integrity of all its citizens and requested information on those measures as well as on the investigation carried out by the authorities in those cases.

559. At the time of preparation of the present report, no reply had been received by the Government of Uganda.

2. Other cases transmitted by the Special Rapporteur

560. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Uganda transmitting information according to which in February 1991, more than 11 civilians had reportedly been executed by the Ugandan army in Soroti district, allegedly for collaborating with rebel groups. In May 1991, over 100 persons including members of rebel forces were killed, allegedly by the Ugandan military, in Padibe, near Kitgum (northern Uganda).

561. In the same letter, the Special Rapporteur also transmitted to the Government of Uganda allegations concerning an incident in which approximately 100 people were said to have been killed by members of the Army in July 1989 in the Kumi district of Okungoro, when they were crammed into an unused

railway waggon and burnt to death alive. Reportedly, this occurred in the context of a campaign waged by the Ugandan Army against rebel forces. It was alleged that no investigation into the case had taken place.

562. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Uganda to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Union of Soviet Socialist Republics

1. Appeals for urgent action

563. On 14 January 1991, the Special Rapporteur sent a cable to the Government of the Union of Soviet Socialist Republics concerning the death of at least 13 civilian demonstrators who were killed (and over 100 injured) when Soviet troops seized the broadcasting facilities in Vilnius, Lithuania. It was alleged that paratroopers backed by tanks opened fire at unarmed crowds gathered there.

564. The Special Rapporteur appealed to the Government to take such measures as to ensure that there would be no further loss of life and that the right to life of the individual as provided for under article 6 of the International Covenant on Civil and Political Rights be fully guaranteed and protected. In addition, he requested information on the above-mentioned incident as well as on the measures taken to prevent further deaths.

565. On 8 October 1991, the Special Rapporteur sent a cable to the Government of the Soviet Union concerning incidents which led to government security forces firing on civilian demonstrators on 25 September and 4 October 1991 in Tbilisi, Georgia. According to the information, during the night of 25 September 1991, violent clashes broke out in Tbilisi between National Guard troops loyal to State President Gamsakhurdia and government opponents, which left at least four persons dead and five wounded. Further violence erupted on the night of 3 October 1991, when elements of the OMON (special police forces) attacked the retreating rebel guard near a lake on the outskirts of Tbilisi. Also during that night, government security forces reportedly began to fire upon apparently unarmed opponents of the State President who had gathered in the streets. The violence continued into the following morning, when attacks by government security forces upon civilian opponents of the President increased in intensity; some of the security forces were allegedly dressed in civilian clothing. In addition to firearms, the soldiers allegedly wielded iron bars.

566. In this connection, the Special Rapporteur referred to paragraph 4 of the Principles Relating to the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions adopted by the Economic and Social Council in its resolution 1989/65 of 24 May 1989, to the principles embodied in the Universal Declaration of Human Rights, to article 6 of the International Covenant on Civil and Political Rights and to paragraphs 4, 5, 9 and 19 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on

the Prevention of Crime held in Havana in 1990. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and physical integrity of its citizens and requested information on those measures as well as on the investigation carried out by the authorities in those cases.

567. On 11 December 1991, the Special Rapporteur sent a cable to the Government of the Soviet Union concerning Vyacheslav Sharayevsky, 32 years of age, and father of two young children, who was reportedly sentenced to death on 21 September 1990 by the Supreme Court of the Russian Federation after being convicted of murdering two women in 1989. Allegedly, he had no right of appeal. According to the information, on 3 January 1991, in an interview with the Russian newspaper Smolenskiye Novosti, Vyacheslav Sharayevsky claimed that he had admitted responsibility for the crimes at the preliminary investigation in order to save the life of his younger brother Vitaly who was in fact responsible for them. Reportedly, Vitaly Sharayevsky had been convicted to 15 years' imprisonment for his part in the murders. During the year-long investigation, both brothers were said to have changed their evidence a number of times, each in turn claiming their guilt. Reportedly, on 19 October 1990 Vyacheslav Sharayevsky lodged a petition for clemency with the Supreme Soviet of the Russian Federation. According to the source, he has not received any answer to date. Fears were expressed that, if his petition for clemency was turned down, he would be in danger of imminent execution.

568. In this connection, the Special Rapporteur referred to the Safeguards guaranteeing protection of the rights of those facing the death penalty adopted by the Economic and Social Council in its resolution 1984/50 of 25 May 1984, to the Principles Relating to the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions and to article 3 of the Universal Declaration of Human Rights. He appealed to the Government of the USSR to take all measures at its disposal to protect the life and physical integrity of the above-mentioned person and requested information on these measures as well as on the investigation carried out by the authorities in this case.

Government reply

569. On 29 January 1991, the Government of the Soviet Union replied to the Special Rapporteur's cable dated 14 January 1991, transmitting a statement made by President Mikhail Gorbachev in Moscow on 22 January 1991 concerning the situation in Lithuania.

2. Other cases transmitted by the Special Rapporteur

570. During 1991, no other cases were transmitted by the Special Rapporteur.

3. Other information received by the Special Rapporteur

571. On 23 May 1991, a communication was received from the Government of the Republic of Lithuania which drew the attention of the Special Rapporteur to the actions of the Soviet military towards citizens of the Republic of Lithuania, and appealed to him to inform the nations of the world, members of the United Nations, of the violations of human rights on the territory of Lithuania.

United Republic of Tanzania

1. Appeals for urgent action

572. During 1991, no appeals for urgent action were sent by the Special Rapporteur.

2. Other cases transmitted by the Special Rapporteur

573. On 8 November 1991, the Special Rapporteur sent a letter to the Government of the United Republic of Tanzania transmitting allegations according to which on 25 May 1991, the leader of the clandestine opposition group Tanzanian Youth Democratic Movement, detained at Ukanga prison, died at Muhimbili medical centre, allegedly after having been tortured while in custody.

574. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of the United Republic of Tanzania to provide him with information on the above-mentioned case and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

United States of America

1. Appeals for urgent action

575. On 22 February 1991, the Special Rapporteur sent a cable to the Government of the United States of America concerning the case of Mr. Joe Giarratano who was due to be executed by electrocution in Virginia on 22 February 1991, after exhausting all appeals. Newly-discovered evidence suggested that potentially exculpatory evidence was not made known to the defence at the time of the trial and also that Mr. Giarratano may not have been competent to stand trial. According to the information, Mr. Giarratano, now aged 34, was convicted in 1979 of the murder of Barbara Kline and the rape and murder of her 15 year-old daughter Michelle, in Norfolk, Virginia. Mr. Giarratano, who was heavily addicted to drugs at the time, claimed that he discovered the bodies after waking from a blackout in their apartment where he also had been living. He fled to his home state of Florida, but immediately surrendered himself to the police and confessed to the crime. To date, the only physical evidence which connected Mr. Giarratano to the scene of the crime was one hair and some fingerprints. Mr. Giarratano waived his right to a jury trial, refused to cooperate with his trial lawyer and asked for the death penalty. He was convicted and sentenced to death after a trial lasting half a day. Subsequently, his appeal lawyers uncovered evidence which raised serious questions about his guilt, they also challenged his mental state at the time of the trial and, in particular, the reliability of the confession which was used in evidence to secure conviction.

576. On 19 July 1991, the Special Rapporteur sent a cable to the Government of the United States of America concerning the imminent execution of Andrew Lee Jones. According to the information, Mr. Jones, an African-American, was convicted of the murder of an 11-year-old African-American girl and sentenced

to death in November 1984; he was due to be executed in Louisiana on 22 July 1991. Mr. Jones is believed to be mentally retarded and suffers from neurological brain damage resulting from several serious head injuries sustained during his early life. Mr. Jones was represented at the trial by a court-appointed lawyer who, apparently owing to his inexperience, failed to object to the prosecution's challenge against all the potential African-American jurors. During the appeals process, the issue was raised as to whether the trial court had violated the 1986 Supreme Court ruling in Babson v. Kentucky in which the Court held that it was unconstitutional to remove black jurors from trial juries on account of their race. Moreover, in January 1991, the State of Louisiana changed the method of execution from electrocution to lethal injection in order to provide a more humane method of execution, the effect of the law was not, however, retroactive. Thus, prisoners sentenced to death before 1 January 1991 may not choose between the old and the new methods of execution, but must be executed by electrocution.

577. On 19 September 1991, the Special Rapporteur sent a cable to the Government of the United States of America concerning the imminent execution of Antonio James and of James Russell. According to the information, Antonio James, aged 36, an African-American, was sentenced to death by Louisiana courts for the murder of a white male during the course of a robbery in 1979, he was scheduled to be executed on 19 September 1991. It was alleged that Mr. James may have been mentally retarded. Mr. James Russell, aged 42, an African-American, was convicted in Texas for the kidnap and murder of Mr. Thomas Stearns, a white businessman. He was sentenced to death in November 1977 following legal proceedings which, at both the trial and appeals stages, may have suffered from deficiencies likely to raise questions as to their conformity with prevailing minimum international standards for fair trial. Mr. Russell exhausted his legal appeals on 28 June 1991 when the United States Supreme Court denied his federal habeas corpus petition. He was scheduled to be executed on 19 September 1991. Mr. Russell was arrested shortly after the murder of Mr. Stearns and was detained for three years in jail while awaiting trial. During the jury selection process, the prosecutor successfully excluded several potential African-American jurors who, reportedly, were well-qualified: an all-white jury resulted. During the trial, some of the prosecution's arguments appeared to be designed to place unwarranted emphasis upon the fact that defendant was an African-American and the victim was white.

578. In connection with the above three cases, the Special Rapporteur referred to the Safeguards guaranteeing protection of the rights of those facing the death penalty approved by the Economic and Social Council in its resolution 1984/50 of 25 May 1984 to paragraph 4 of the Principles Relating to the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions adopted by the Economic and Social Council in resolution 1989/65 of 24 May 1989, to the principles embodied in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. He further appealed to the Government of the United States of America to take all measures at its disposal to protect the life and physical integrity of the above-mentioned persons and requested information on those measures as well as on the investigation carried out by the authorities in those cases.

579. On 24 December 1991, the Special Rapporteur sent a cable to the Government of the United States of America concerning the imminent execution of Johnny F. Garett. According to the information, Mr. Garett was due to be executed in the state of Texas on 7 January 1992 after being sentenced to death in September 1982 for the rape and murder of a 76 year-old nun. Mr. Garett, now aged 27, was 17 years old at the time of the crime; it was now known that he had a history of drug and alcohol abuse and had been diagnosed as chronically psychotic; this evidence was reportedly not presented to the trial jury. In June 1989, the United States Supreme Court ruled that juvenile offenders of 16 years could be executed, although the minimum age for the death penalty in Texas is 17 years of age.

580. In this connection, the Special Rapporteur referred to the standards set out by the Covenant on Civil and Political Rights for the imposition of the death penalty and, in particular, to article 6, paragraph 5, concerning the death penalty for crimes committed by persons under 18 years of age; he also referred to the minimum standards for fair trial as articulated in international legal instruments and resolutions pertaining to the administation of justice. Moreover, the Special Rapporteur referred to paragraph 4 of the Principles Relating to the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, to the principles embodied in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. He further appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned person and requested information on those measures as well as on the investigation carried out by the authorities in that case. At the time of preparation of the present report, no reply had been received from the Government of the United States of America.

Venezuela

1. Appeal for urgent action

581. During 1991, no appeals for urgent action were sent by the Special Rapporteur.

2. Other cases transmitted by the Special Rapporteur

582. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Venezuela transmitting information regarding the judicial investigation into the reported discovery of the mass graves at "La Peste" Cemetery in Caracas, in particular on the progress made in identifying the bodies. Reportedly, the persons buried in the graves were victims of the extrajudicial killings of February and March 1989, described in the report of the Special Rapporteur to the Commission on Human Rights at its forty-seventh session (E/CN.4/1991/36, paras. 521-31). It was reported that, after some delays allegedly attributable to the authorities, the court order issued by a civil judge to exhume the bodies at La Peste was carried out in November 1990: the bodies of 68 young men were said to have been found. The Special Rapporteur was also informed that the former Minister of Defence and the President of the Municipal Council of Caracas, both called as witnesses in the course of the investigation in December 1990, had denied the existence of the

mass graves and refused to provide information as they considered it a military secret. After the promotion and transfer to another jurisdiction, in April 1991, of the civil judge originally in charge of the case, fears were expressed to the Special Rapporteur that the investigation process might be slowed down.

583. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Venezuela to provide him with information on the progress and results of the judicial investigation into the above-mentioned case.

Government's reply

584. On 19 December 1991, a reply containing the following information was received from the Government of Venezuela in response to the Special Rapporteur's letter of 8 November 1991: the Government of Venezuela, in view of its commitment to, and efforts to ensure respect for, human rights has always referred your letters for reply to the Office of the Attorney-General of the Republic, an independent organ of the Government (the Attorney-General is appointed by Congress) which protects human rights and guarantees constitutionality. The reply of this independent organ was the one that the Government transmitted, in its own name, to the Centre for Human Rights and to the Commission's Special Rapporteur. In the present circumstances, the time allowed the Government to reply to this accusation is insufficient. It would be unfortunate if the reply of the Government of Venezuela could not be included in the report to be submitted to the Commission on Human Rights at its forty-eighth session together with the accusation to which the Special Rapporteur refers simply because there was not enough time to provide the necessary information - a circumstance that cannot be attributed to the National Government.

Yemen

1. Appeal for urgent action

585. On 22 April 1991, the Special Rapporteur sent a cable to the Government of Yemen concerning Hamza Abu Zeid, a Palestinian alleged to have been responsible for the assassination of PLO officials in Tunis on 14 February 1991: it was reported that the Tunisian authorities handed him over to the PLO who took him to Yemen; Mr. Abu Zeid apparently is held in a camp in Sanaa and is said to have been tried there by a PLO military court, found guilty of the murders in Tunis and sentenced to death. It was further reported that Mr. Abu Zeid's execution was imminent.

586. In this connection, the Special Rapporteur, referring to articles 2 and 6 of the International Covenant on Civil and Political Rights, appealed to the Government to take all measures at its disposal to protect the life and physical integrity of the above-mentioned person and requested information on those measures as well as on the investigation carried out by the authorities in that case.

587. At the time of preparation of the present report, no reply had been received from the Government of Yemen.

Yugoslavia

1. Appeals for urgent action

588. On 19 March 1991, the Special Rapporteur sent a cable to the Government of Yugoslavia concerning the possible extrajudicial execution of 2 persons and the injury of at least 76 others in clashes between civilian demonstrators and police in Belgrade on 9 March 1991. According to the information, a peaceful mass demonstration in the centre of Belgrade turned violent when police used tear-gas, water cannon and gunfire to break up a crowd estimated at between 3,000 and 10,000 persons who were calling for the removal of Mr. Slobodan Milosevic as President of Serbia: the dead were identified as a 54-year-old policeman and an 18-year-old youth; 2 other persons were treated for gunshot wounds and at least 76 other persons were injured in the clashes.

589. In this connection, the Special Rapporteur referred to paragraphs 4, 5, 9 and 10 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, to the fundamental principle set forth in the Universal Declaration of Human Rights, and to article 6 of the International Covenant on Civil and Political Rights.

590. As the Special Rapporteur felt that the situation in Yugoslavia was such that his appeal alone might not suffice to safeguard the lives and security of countless numbers of innocent persons not taking part in the acts of violence, he also sent, on 19 March 1991, a cable to the Secretary-General of the United Nations in which he referred to General Assembly decision 44/415 of 4 December 1989. That decision invited States Parties to resort to third-party assistance in a form of a commission of good offices, mediation or conciliation within the United Nations in order to settle their disputes by peaceful means. In this connection, the Special Rapporteur appealed to the Secretary-General to take any measures he might deem appropriate to lower the level of violence and the consequent loss of life.

591. On 2 July 1991, the Special Rapporteur sent a cable to the Government of Yugoslavia expressing concern that more than 100 persons had been killed in the violence in Slovenia and Croatia. In this connection, the Special Rapporteur referred to article 3 of the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights. In addition, he referred to those minimum humanitarian standards which were applicable in all situations of armed conflicts, including conflicts not of an international character, and which could not be derogated from under any circumstances. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and physical integrity of its citizens and requested information on those measures as well as on the investigation carried out by the authorities in those cases.

592. On 15 November 1991, the Special Rapporteur again expressed his concern to the Government of Yugoslavia concerning the situation there; in particular, since his previous cable, the figure of civilian casualties was estimated to have risen to over 10,000. He reiterated his profound preoccupation concerning recent developments in Croatia, especially in Dubrovnik as well as in several towns and villages of western Slavonia, and above all about the

plight of the civilian population, including women, children and the elderly, and about the difficulties for members of international humanitarian aid organizations to evacuate the wounded and bring relief to the affected areas. In this connection, the Special Rapporteur referred once more to the fundamental principles set forth in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights and requested information on measures taken by the Government to safeguard the population in those areas so affected by violence.

Government replies

593. On 18 January 1991, a reply was received from the Government of Yugoslavia to the Special Rapporteur's letter of 10 December 1990 (see E/CN.4/1991/36, paras. 541 and 542) stating that the well-organized and aggressive Albanian secessionist movement in Kosovo was the most drastic example of the abuse of minority rights for the purpose of secession, unprecedented in Europe in the post-war period. In this separatist drive, it had been necessary to take all the measures required by the law in order to defend the territorial integrity of Serbia and the unity of Yugoslavia as a whole; unfortunately, the introduction of these measures had resulted in loss of life. During a search for smuggled arms in Palatna, the police sealed off a few residential buildings and other facilities on 13 September 1990 at 5.30 a.m.: the persons trapped in the buildings and those hiding in the adjoining woods put up strong resistance until 11.10 a.m.; shots were fired at the police and their vehicles. The police ordered them to cease firing, but the shooting intensified and a policeman, Milan Muratovic, was seriously wounded; he was shot at by Besim Latifi; the police fired back and Latifi died instantly. While one of the buildings was being searched, Skender Monolli opened fire and gravely injured a police officer, Miloje Blagojevic; the police fired back at him: he was wounded and died later on in a hospital in Pristina. Thus, the allegations contained in the annex to the Special Rapporteur's letter of 10 December 1990 that the police had fired indiscriminately at the unarmed Albanian civilians were not founded.

594. On 27 November 1991, a reply was received from the Government of Yugoslavia to the Special Rapporteur's cable of 2 July 1991 concerning the activities of the Yugoslav People's Army (YPA) in Slovenia and Croatia. It was stated that the units and institutions of the YPA, during their entire engagement in the Republics of Slovenia and Croatia, had consistently and unconditionally adhered to all the rules of international law in time of war. This was not the case with military units of the Republics of Slovenia and Croatia as evidenced by numerous facts. In accordance with its constitutional competence and the decisions of the competent federal organs, YPA units were deployed in crisis areas in the Republic of Croatia to keep apart the parties in conflict and to prevent inter-ethnic armed conflicts of greater proportions. The engagement of the YPA could not prevent all conflicts, but it was certain that there would have been more victims if the YPA had not been present. In the Republic of Croatia, since 9 May 1991, there had been 126 provocations and attacks on YPA members and facilities. In the majority of cases, the instigators were units and organs of the National Guard Squadrons (NGS) and Ministry of Internal Affairs units (MIA) of Croatia which encouraged armed civilians to carry out individuals and group terrorist acts. The Government stated that the actions undertaken by the YPA were limited and

were not a basis for a permanent solution of the problem; such a solution was possible only by political means and through democratic agreements of all the Yugoslav nations and republics. The decision to withdraw YPA units from Slovenia proposed by the Supreme Command Headquarters was aimed at creating conditions for a peaceful solution of the Yugoslav crisis, while its engagement in the Republic of Croatia was imperative to prevent the escalation of inter-ethnic conflicts.

2. Other cases transmitted by the Special Rapporteur

595. On 18 November 1991, the Special Rapporteur sent a letter to the Government of Yugoslavia transmitting information he had received as follows:

(a) Several incidents reportedly had been taking place in the context of the armed conflict in Croatia following the declaration of independence by Slovenia and Croatia on 25 June 1991.

(b) On 1 July 1991, three town council officials from Tenja were said to have been killed when their car was riddled with gunfire by an extremist who was allegedly not arrested.

(c) On 17 and 20 July 1991, in Sibenic and Lovinac, respectively, four people reportedly died as victims of mortar fire by Serbian paramilitary forces.

(d) In three other incidents which occurred on 5, 24 and 30 July 1991 near Vukovar, five people were said to have died in a mortar fire attack by Serbian paramilitary forces, allegedly supported by Federal Army troops with rockets.

(e) On 25 July 1991, two Federal Army soldiers were reportedly shot by other members of the Federal Army when they tried to escape from Osijek garrison in order to join the Croatian national guard.

(f) One woman and three Croatian police officers were reportedly extrajudicially executed in Stug, Banija region, on 26 July 1991. In the course of an offensive, Serbian paramilitary troops were said to have captured around 50 people; allegedly, they ordered them to run and then fired upon them.

596. In the same letter, the Special Rapporteur also transmitted to the Government of Yugoslavia allegations concerning cases of death as a result of torture and extrajudicial executions between 3 March 1990 and 27 May 1991 in the autonomous region of Kosovo.

(a) A young student was reportedly tortured and killed at Kuzmin by a group of peasants organized as members of the "Bozur", an armed Serbian paramilitary group. Two other people were said to have died in the villages of Shupkove and Peranas, allegedly after having been subjected to torture by members of the Serbian police.

(b) On 2 January 1991, at Mitrovice, and on 4 March 1991, at Gjukove, two people were reportedly extrajudicially executed, allegedly by Serbian police officers who shot at them with automatic rifles.

(c) A high school student was reported to have been killed by members of the Federal Army near the Albanian border in Morine on 27 June 1991.

(d) On 13 September 1990, the body of a man reportedly killed by members of the Federal Army was found in the street in Kosovo; It was alleged that this was an act of retaliation after the parliament had declared Kosovo to be a republic.

597. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Yugoslavia to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

Zaire

1. Appeals for urgent action

598. On 4 September 1991, the Special Rapporteur sent a cable to the Government of Zaire drawing its attention to information that had been received according to which persons had been killed and wounded at Kinshasa by security forces. According to the information received, on 2 September 1991, unarmed civilian demonstrators were alleged to have gathered in order to protest against various government policies; it was said that the security forces had used excessive force against the crowd in order to disperse it, thus causing the death of at least 10 persons and wounding others.

599. On 9 September 1991, the Special Rapporteur sent a cable to the Government of Zaire drawing its attention to information that had been received alleging that three persons had been killed and others wounded at Kinshasa. According to the information received, on 4 September 1991, members of the security forces are alleged to have attacked and sacked the offices of two political parties, namely, the Union for Democracy and Social Progress (UDPS) and UFERI, and caused the death of one person in the UDPS office and of two persons in the UFERI office.

600. In his two cables of September 1991, the Special Rapporteur referred to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and in particular to paragraphs 4, 5, 7, 8, 9 and 10 which are based on the fundamental rule that the force used should be proportional to the objective sought. He also referred to paragraphs 9 to 17 and 18 to 20 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions and methods of effectively investigating such executions, approved by the Economic and Social Council in its resolution 1989/65 of 24 May 1989, to the principles embodied in the Universal Declaration of Human Rights and to article 6 of the International Covenant on Civil and Political Rights.

601. Moreover, the Special Rapporteur urged the Government of Zaire to take all measures at its disposal to protect the life and physical integrity of its citizens and requested information on those measures as well as on the investigation carried out by the authorities in this case.

2. Other cases transmitted to the Government

602. On 8 November 1991, the Special Rapporteur sent a letter to the Government of Zaire transmitting information he had received concerning the alleged extrajudicial execution of demonstrators by members of the Civil Guard and the Police. On 3 December 1990, during a violent protest after price rises of basic goods in Kinshasa, at least 20 people were reportedly killed and 200 injured when security forces opened fire on the demonstrators. On 4 December 1990, a student was reported to have been killed by members of the Security Forces in Matadi, Bas-Zaire. Another incident, in which 29 people reportedly died and 28 were wounded, took place between 13 and 15 April 1991 in Mbuji-Mayi, after the police broke into a private house where a meeting of the Union for Democracy and Social Progress (UDPS) was being held; the house was reportedly vandalised and seven people were arrested. Following this incident, people reportedly protested in the street; police allegedly opened fire on the demonstrators.

603. In the same letter, the Special Rapporteur transmitted further allegations to the Government of Zaire according to which 20 prisoners had died in Makala Central Prison in Kinshasa between April and May 1991: allegedly, bad prison conditions had led to their death from hunger, tuberculosis and malaria. The Special Rapporteur was further informed of death threats against the director of a radio programme for peasants at Radio Candib in Bunia, Haut Zaire. Reportedly, those death threats started after he had interviewed the regional representative of ANEZA/ITURI on the socio-economic problems faced by the local population; allegedly, the death threats were carried out by members of the National Intelligence Service.

604. The Special Rapporteur, referring to the pertinent international human rights instruments listed in the annex, requested the Government of Zaire to provide him with information on the above-mentioned cases and, in particular, on the progress and results of judicial investigations carried out by the competent authorities.

IV. REVIEW AND RECOMMENDATIONS

A. Review of first decade of activities

1. The mandate of the Special Rapporteur

605. The mandate of the Special Rapporteur which was established by the Economic and Social Council in its resolution 1982/35 of 7 May 1982, has evolved during the last 10 years. This evolution is due, on one hand, to the variety of situations presented to the Special Rapporteur which have required interpretation of the concept of "summary or arbitrary execution" and, on the other, to subsequent resolutions of the General Assembly, the Economic and Social Council and the Commission on Human Rights concerning the mandate of the Special Rapporteur, and the continuing development of international standards which directly or indirectly concern the right to life. Similarly, the compelling necessity to respond, as effectively as possible, to situations where the right to life is in danger, and the response of Governments, the General Assembly, the Economic and Social Council and the Commission on Human Rights to the activities of the Special Rapporteur, have contributed to the evolution of the working methods of the Special Rapporteur. The following is a review of some of the more relevant developments concerning the mandate and working methods of the Special Rapporteur.

606. In his first report, the Special Rapporteur adopted the following definitions concerning the operative terms of his mandate:

(a) "Summary execution" is the arbitrary deprivation of life as a result of a sentence imposed by means of summary procedure in which the due process of law and in particular the minimum procedural guarantees as set out in article 14 of the Covenant are either curtailed, distorted or not followed;

(b) "Arbitrary execution" is the arbitrary deprivation of life as a result of the killing of persons carried out by order of a Government or with its complicity or tolerance or acquiescence without any judicial or legal process (E/CN.4/1983/16, para. 66).

607. In its resolution 1985/40 of 30 May 1985, the Economic and Social Council requested the Special Rapporteur "to respond effectively to information that comes before him, in particular when a summary or arbitrary execution is imminent or threatened". This contributed to an important evolution of the mandate, as the Special Rapporteur began to send appeals for urgent action not only in cases of persons in custody where there was reason to believe execution might be imminent, but also in cases of persons in liberty who receive death threats, as well as in situations in which the fear was expressed that reported excesses by security forces might be repeated. Cases of this kind have become an important part of the caseload in several countries, and in many instances governmental authorities have offered protection to the persons concerned after being contacted by the Special Rapporteur.

608. The questions which have arisen with regard to the mandate of the Special Rapporteur have been of two kinds: those concerning whether the deprivation of life is "summary or arbitrary", that is, whether or not the deprivation of life in a certain set of circumstances is compatible with international standards, and whether or not there is sufficient State responsibility for the deprivation of life to justify the concern of the Special Rapporteur and his intervention on behalf of the international community.

609. Questions concerning whether or not an execution may be considered summary or arbitrary have arisen most often in connection with the death penalty. The Special Rapporteur has consistently maintained, in keeping with the safeguards guaranteeing protection of the rights of those facing the death penalty, approved by the Economic and Social Council in 1983, that the application of the death penalty without full respect for the guarantees equivalent set forth in articles 6, 14 and 15 of the International Covenant on Civil and Political Rights constitutes arbitrary execution. In his fifth report (E/CN.4/1987/20), the Special Rapporteur indicated that:

> "In view of the fact that the standards set forth in article 14 of the International Covenant on Civil and Political Rights are reflected in the overwhelming majority of national legislations, are referred to and accepted in numerous resolutions and declarations of international bodies, and have been specifically accepted by a majority of the international community through ratification of the Covenant, they have acquired the character of customary international law binding on all States whether or not they have ratified the Covenant."

610. Over the past 10 years, the Special Rapporteur has sent letters or urgent appeals to over 100 States, many of which concern the application of the death penalty without full compliance with the standards set forth in the International Covenant on Civil and Political Rights. The relevant provisions of the Covenant are cited in all such letters and messages, whether or not the State to whom it is addressed is a State party. Only two States have indicated that they did not consider themselves bound by these standards, and at least one such reply does not concern the guarantees set forth in article 14 but rather the minimum age for the applications of the death penalty (E/CN.4/1990/22, para. 431, and E/CN.4/1991/36, para. 99). This is a further evidence that the guarantees contained in article 14 have become an accepted part of customary international law, in so far as capital punishment is concerned.

611. In so far as deaths caused by private individuals, groups or opposition forces are concerned, the Special Rapporteur suggested in his first report that the concept of "arbitrary execution" should be interpreted to include killings committed "by order of a Government, or with its complicity, tolerance or acquiescence" (E/CN.4/1983/16, para. 66). This has been questioned on occasion by a few Governments, which consider that the mandate should be limited to "those cases in which there was actual involvement of a government official" (E/CN.4/1991/36, para. 49).

612. The Special Rapporteur cannot agree with this interpretation of his mandate. The obligation of the State to protect the fundamental right to life of every person applies to any threat of summary or arbitrary execution, regardless of the identity of the author. The information received during the last decade contain many examples of situations in which individuals or groups operating independently from the Government pose a very serious threat to the right to life, in some cases comparable to the threat which may be posed by a Government. These situations include communal, racial, ethnic, religious and tribal violence, assassinations or massacres committed by revolutionary, counter-revolutionary or separatist movements, assassinations by elements of the police or governmental armed forces or militia which are not under effective governmental control and assassinations by private individuals or groups employed to defend the economic interests of large landowners, drug traffickers or others.

613. In cases such as these, involving not isolated homicides for personal motives, but the deliberate and systematic killing of significant numbers of persons, the Government may be responsible before the international community either because of direct involvement or by tolerance, that is, by wilful failure to prevent the killings or to investigate and punish the responsible parties. This does not mean that the mandate of the Special Rapporteur extends to ordinary crimes. In cases where a government reply indicates that a thorough investigation has led to identification of those responsible for a killing, and that the motives for the crime were purely personal, the Special Rapporteur does not pursue the case further. It should be noted that situations where there is no direct involvement of the Government are among the most difficult for the Special Rapporteur to address effectively. Given the limited means at his disposal and the difficulty in obtaining the kind of information necessary to form a clear opinion as to whether or not the Government has been remiss in its obligation to prevent, investigate and punish crimes in which there is no evidence of direct involvement, the Special Rapporteur has very often been obliged to terminate consideration of a case or situation without stating any opinion on the allegation and reply received. Hopefully, there will be further efforts to improve the efficiency of his working methods. If there is a qualitative improvement in cooperation with Governments and a quantitative improvement in the support provided to the Special Rapporteur through the intermediary of the Centre for Human Rights, greater progress will be made in clarifying such cases.

614. The situation of executions by opposition forces is a different matter, in that the question of governmental tolerance or acquiescence does not arise. Nevertheless, such groups are an important source of summary and arbitrary killings, and Commission on Human Rights resolution 1990/75 of 7 March 1990 expressly asks the Special Rapporteur to include information on such executions in his Report, as well as information concerning violence by drug traffickers. Considerable information concerning executions by opposition groups has been received over the years, and special attention was given to this matter in the sixth report of the Special Rapporteur (E/CN.4/1988/22, paras. 182-87). The present report contains information and allegations concerning executions by the National Liberation Army and Revolutionary Armed Forces of Colombia, the Farabundo Marti Liberation Front of El Salvador, the Eritrean People's Liberation Front and Ethiopian People's

Revolutionary Front, the Guatemalan National Revolutionary Unity, the National Patriotic Front of Liberia, the "Shining Path" and Tupac Amaru Revolutionary Movement in Peru and the "Liberation Tigers of Eelam Tamil" and Muslim Home Guards in Sri Lanka.

615. The involvement of drug traffickers in summary and arbitrary executions was analyzed in the 1989 mission of the Special Rapporteur in Colombia. The report stated in part: to achieve their aims [in particular, to operate without interference by guerrilla movements active in the same rural areas], drug traffickers set up paramilitary organizations: it is estimated that there are currently over 140 paramilitary groups operating in Colombia today; the paramilitary groups are trained and financed by drug traffickers and possibly a few landowners. They operate very closely with elements in the armed forces and the police. Most of the killings and massacres occur in areas which are heavily militarized; the paramilitary groups are able to move easily in such areas and commit murders with impunity. Paramilitary groups are the greatest source of violations of the right to life in Colombian society today (E/CN.4/1990/22/Add.1, paras. 52-57). Little reliable information about the summary and arbitrary executions perpetrated by drug traffickers in other countries has been received, and it is not known at present whether this pattern is applicable to other countries.

2. Number and type of cases reported

616. The number of cases reported has grown dramatically, especially during the last few years. A table indicating the number of Governments to which allegations were forwarded between 1982 and 1988 was published in the seventh report of the Special Rapporteur (E/CN.4/1989/25, para. 304). During the last year covered by that table, 100 communications were sent to 46 countries; the present report incorporates 174 communications to 65 countries, including both urgent appeals and requests for information concerning allegations. During the last year, the number of urgent appeals alone nearly doubled, increasing from 64 urgent appeals addressed to 25 countries in 1990 to 125 urgent appeals sent to 44 countries in 1991.

617. The first report of the Special Rapporteur identified four types of situations in which summary or arbitrary deprivation of life commonly occurs, and enumerated the main provisions of international treaties, declarations and other instruments relevant to these situations. The situations identified were the following:

(a) The application of the death sentence without full compliance with due process;

(b) Executions occurring during armed conflict, internal disturbances, or states of emergency;

(c) Deaths resulting from excessive use of force in the course of law enforcement or maintaining the public order;

(d) Deaths in custody.

618. The second report of the Special Rapporteur was devoted in large part to the classification of situations in which summary or arbitrary executions are common, and factors which appear to contribute to the occurrence of such executions. The most common situations which gave rise to summary or arbitrary executions were:

(a) Political upheavals, (i.e., after a violent change of Government; leading to internal armed conflict);

(b) The suppression of members of the political opposition groups, including the activities of death squads, excesses committed by the police and military during states of emergency and reprisals for failed coups;

(c) Abuse of power, in particular the repressions of popular movements;

(d) Severe campaigns against crime, resulting in extra-legal assassination or summary executions of ordinary criminals.

619. The factors which the Special Rapporteur identified as being conducive to summary and arbitrary executions were the absence of a democratic political process, the existence of a state of emergency or equivalent, the existence of special courts, the lack of judicial independence, lack of discipline among law enforcement and military personnel, the existence of secret police or paramilitary groups, ethnic conflicts, religious intolerance and racial discrimination. The Special Rapporteur also emphasized the importance of unequal distribution of wealth as a root cause, generating social struggles by the poor which in some cases meet with a violent response on the part of the State or economically powerful groups.

620. In subsequent reports, the Special Rapporteur analysed many of the above mentioned phenomena in more detail, in some cases proposing new standards or other action, as well as new aspects of the problem which have emerged from the information received. In 1986, special attention was devoted to internal armed conflicts and deaths in custody; in 1988 special attention was given to violations of the right to life by opposition groups and death squads not under government control; and in 1990 the report analysed the problems of death threats and the execution of human rights defenders.

621. The present report contains information concerning two countries in which large numbers of refugees or asylum-seekers are alleged to be at risk of refoulement, that is, forcible return to their country of origin. According to reliable information in the possession of the Special Rapporteur, in both cases the social or ethnic groups to which these persons belong have been victims of large numbers of summary and arbitrary executions in their country of origin. Primary responsibility for safeguarding the right to life of these persons clearly lies with their own Government, and they are entitled to be able to return to their own countries and homes with full guarantees of their physical safety. However, when persons have been forced to flee their country because of well-founded fear of summary or arbitrary execution, the country to which they have fled also has an obligation to refrain from taking any action which would put them at risk of summary or arbitrary execution, including inter alia returning them to their country of origin prior to the restoration of conditions which offer sufficient guarantees of their physical safety and right to life.

3. Working Methods

622. Most of the allegations concerning summary and arbitrary executions and death threats received by the Special Rapporteur are presented by non-governmental organizations. Some Governments also present allegations concerning summary or arbitrary executions attributed to opposition forces. In addition, in order to enhance the complementarity, cooperation and effectiveness of the various thematic and country specific procedures existing within the United Nations system, the Special Rapporteur makes an effort to keep abreast of information being generated within the framework of other mandates or procedures and, when appropriate, takes action on the basis of such information.

623. When allegations indicating that a summary or arbitrary execution may be imminent are received, and in other situations where it appears that urgent measures by the Government might prevent the recurrence of loss of life or repetition of excessive use of force by law enforcement officials, the usual course of action is to send an urgent message to the Government concerned, in keeping with Economic and Social Council resolution 1985/40 which requested the Special Rapporteur to "respond effectively to information that comes before him, in particular when a summary or arbitrary execution is imminent or threatened".

624. Urgent appeals are also sent in response to allegations that individuals or groups who seek to cooperate with the United Nations and representatives of its human rights bodies or who have sought to avail themselves of United Nations human rights procedures are being subjected to intimidations or reprisals involving possible threat to the right to life. Urgent steps of this kind were specifically requested by the Commission on Human Rights in its resolutions 1990/76 of 7 March 1990 and 1991/70 of 6 March 1991. During the year covered by the present report, the Special Rapporteur sent urgent appeals under resolution 1991/70 to 49 Governments concerning some 4,200 cases of death threats against persons who seek to cooperate with the United Nations and representatives of its human rights bodies, or who have sought to avail themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms. The Special Rapporteur has also taken urgent steps in cases of reprisals against persons who have been victims, their representatatives, family members or witnesses, in relation to cases or incidents falling under the Special Rapporteur's mandate.

625. The precise tenor of the message depends on the nature of the allegations and the amount of information available. In some cases, in particular death threats, the Government is usually requested to provide protection to the person or persons concerned and to investigate the origins of the threat. Where a judicially imposed death sentence is concerned, the Government is usually asked to provide more information in order to help determine whether or not sentence has been imposed in full compliance with relevant international standards; the Special Rapporteur has on occasion requested the Government to suspend the application of the sentence until he has time to evaluate the reply. In some cases, the Special Rapporteur requests that the sentence be commuted on humanitarian grounds, as for example when the information available leaves room for doubt as to whether or not the trial or sentence was fully compatible with international standards.

626. In cases where no execution or extra-judicial killing appears to be imminent, a summary of the allegations is forwarded to the concerned Government by letter, together with the observations of the Special Rapporteur as to the relevant international standards and the type of information he would like to receive in order to clarify the veracity of the allegations and the compatibility of the facts with international standards concerning summary or arbitrary executions. In its resolution 1991/31 of 5 March 1991, the Commission on Human Rights encouraged Governments to respond expeditiously to such requests for information.

627. On a few occasions, allegations concerning executions by opposition forces have been sent to the Government of the State in which they are alleged to have occurred or be imminent. However, in most cases such allegations have been made by the Government itself. This presents a problem, since there is no entity having standing in international law which can be requested to clarify the information. In effect, the Special Rapporteur has little possibility of evaluating such allegations, unless the State concerned invites him to undertake a mission, which may allow him to assess the situation personally. Moreover, in such cases there is no entity having standing in international law which can be requested to refrain from carrying out an imminent execution or to desist from practices which violate the right to life. Representatives of the Secretary-General engaged in peace-keeping or humanitarian missions do contact armed opposition groups, as do the International Committee of the Red Cross and certain United Nations bodies engaged in providing humanitarian relief. Within the United Nations human rights system, it is generally considered that addressing appeals to such entities or providing them with the opportunity to respond to allegations accusing them of human rights violations would be inappropriate, given their legal status. Consequently, existing working methods offer little opportunity for responding effectively to allegations concerning opposition groups. The comments of the Commission of Human Rights on this matter would be welcome.

628. When a communication has been sent to a Government and no reply has been received, the request for information is usually reiterated. When a reply is received, a number of situations may arise. Sometimes, the information provided by the Government demonstrated clearly that the allegations were unfounded, that the individuals responsible for the executions concerned were duly convicted or sentenced, or that the Government was taking firm measures to prevent the recurrence of summary and arbitrary executions and to investigate those which had occurred.

629. Other times, the reply may reveal that there was little or no discrepancy concerning the facts, but disagreement as to whether or not the situation constituted a summary or arbitrary execution. This situation often occurs in cases concerning the application of the death penalty. In a few cases it may be possible for the Special Rapporteur to reach a conclusion as to whether or not the execution is summary or arbitrary, taking into account the legal standards and principles indicated in Chapter I. If so, his views are included among the observations made by the Special Rapporteur in his report to the Commission on Human Rights, and may also be sent directly to the Government concerned together with a request that certain action be taken.

630. In some cases, if the Special Rapporteur finds the information provided by a Government insufficient or factually inconsistent with other information in his possession, further clarification is requested. In most cases, the information provided leaves contradictions and doubts which it is difficult, if not impossible, to resolve on the basis of submissions of this kind. In such cases, the Special Rapporteur in effect has been obliged to leave the case unresolved, informing the Commission on Human Rights of the action taken and of the substance of any replies received without stating any conclusions on the matter. In resolutions 44/159 of 15 December 1989 and 45/162 of 18 December 1990, the General Assembly requested the Special Rapporteur "to promote exchanges of views between Governments and those who provide reliable information to the Special Rapporteur, where the Special Rapporteur considers that such exchanges of information might be useful". The Special Rapporteur has made a practice of offering to meet the representatives of any country to which communications have been addressed, and the consultations which have taken place have proven useful in clarifying the expectations of the Special Rapporteur, in gaining a better understanding of the background to the cases and in clarifying the intentions of Governments with regard to unresolved cases. It has not yet been feasible to develop such consultations into the kind of "exchange of views" referred to by the above-mentioned resolutions of the General Assembly, but the Special Rapporteur is convinced that they would be invaluable in reducing the number of cases which remain unresolved and thus enhancing the effectiveness of this mechanism.

631. Missions constitute an invaluable and under-utilized method for clarifying the accuracy of allegations, which are particularly appropriate when there are allegations of large numbers of summary or arbitrary executions. In addition, they provide the Special Rapporteur with an opportunity to have a constructive dialogue with the Government concerned, and to identify ways in which international assistance from the United Nations or other sources might be able to aid the Government in its efforts to combat summary and arbitrary executions. The experience of the Special Rapporteur in this regard in mentioned below, under the heading "Cooperation with Governments".

632. Finally, during 1991, two armed conflicts involving a large number of Governments and considerable loss of life in one case, and a single Government in conflict with two Governments which at the time had no standing in international law in the other case, prompted the Special Rapporteur to take the unusual step of addressing appeals to the Secretary General requesting him to take any measures he might deem appropriate to lower the level of violence and the consequent loss of life.

4. Cooperation with Governments

633. Since 1982, the Special Rapporteur has communicated with over 100 countries in order to request information, express concern about allegations of summary or arbitrary executions or to request that certain actions be taken in order to protect the right to life. The vast majority of countries to whom the Special Rapporteur has written have cooperated by replying to at least some of the allegations or requests. The tenor of the replies varies widely, as indicated above. In some cases the government

replies demonstrate a sincere willingness to cooperate in a constructive fashion in order to ensure greater protection against summary and arbitrary executions, and to improve the effectiveness of the Special Rapporteur's working methods. Other replies, while they represent a certain level of commitment to cooperation with the Special Rapporteur and the international community, do not reveal the same constructive attitude.

634. The following are examples of constructive responses to interventions by the Special Rapporteur:

(a) Some Governments have indicated that police officials, military officials and hired killers working for large landholders have been convicted and sentenced to terms of prison of up to 37 years;

(b) In some countries, governmental human rights commissions monitor the investigation of allegations submitted to the Government by the Special Rapporteur, or conduct their own independent investigations, and recommend prosecution of officials who would otherwise have avoided responsibility for executions they have committed;

(c) In some cases, forensic investigations into the cause of death have been carried out, and the results forwarded to the Special Rapporteur;

(d) In several countries, death sentences have been commuted to terms of life imprisonment;

(e) An increasing number of Governments agree to provide special police protection to persons having received death threats;

(f) In a few cases, Governments have enacted reforms enlarging the competence or powers of civilian authorities to investigate or judge military authorities suspected or accused of summary or arbitrary executions.

635. These positive developments are not necessarily sufficient to put an end to summary or arbitrary executions in the countries concerned, and in some countries the number of cases in which positive steps have been reported are no more than a small percentage of the total number of cases reported. Nevertheless, these developments are hopeful signs that even greater progress may be made.

636. In its resolution 1988/38 of 27 May 1988, the Economic and Social Council urged all Governments, particularly those that have consistently not responded to communications transmitted to them by the Special Rapporteur, to cooperate with and assist the Special Rapporteur so that he may carry out his mandate effectively. Most Governments, as indicated above, reply to at least some of the communications sent by the Special Rapporteur. However, there are still a few Governments which systematically fail to reply, despite the 1988 appeal of the Economic and Social Council. The Special Rapporteur believes therefore it would be appropriate to draw the attention of the Commission on Human Rights to the countries which persist in refusing any cooperation. They are:

(a) Chad: communications were sent in 1983, 1985, 1988, 1989, 1990, 1991 and 1992. No replies have been received;

(b) Haiti: in 1988, general information was received in reply to cases forwarded the same year. Since then no reply has been received to cases forwarded in 1990, 1991 and 1992;

(c) Libya: cases were forwarded in 1983, 1984, 1987 and 1988. No reply has been received;

(d) Pakistan: although replies were received in 1984, 1985 and 1987, no reply has been received to allegations forwarded to the Government in 1989, 1990 and 1992;

(e) Somalia: cases were forwarded in 1986, 1987, 1988, 1989, 1990 and 1991. No reply has been received;

(f) South Africa: in 1986, the Government replied to an urgent message sent by the Special Rapporteur earlier the same year. Since then, there has been no response to any of the cases forwarded during 1988, 1989, 1990, 1991 and 1992;

(g) Thailand: cases were forwarded in 1983, 1989 and 1992. No reply has been received;

(h) Uganda: cases were sent in 1988, 1989 and 1992. No reply has been received.

(i) Zaire: cases were sent in 1985, 1986, 1988, 1989, 1991 and 1992. No reply has been received.

637. Countries can also cooperate by inviting the Special Rapporteur to undertake a mission in order to investigate the veracity of the allegations received and to become better acquainted with the efforts being made to prevent and investigate summary and arbitrary executions. In 1983, the Special Rapporteur was invited to undertake a mission in Guatemala; however, since the Commission on Human Rights appointed a Rapporteur to prepare a report on the general human rights situation in that country, it was decided that it would not be necessary to undertake a separate mission to investigate allegations of summary and arbitrary executions. The missions which have been undertaken are:

(a) In 1984, the Special Rapporteur carried out a mission to Suriname. The report of the mission is published in the third report of the Special Rapporteur (E/CN.4/1985/17);

(b) In 1986, the Special Rapporteur undertook a mission in Uganda, which had established a Commission of Inquiry to look into human rights violations. The report of the mission is contained in the fifth report of the Special Rapporteur (E/CN.4/1987/20, Annex II);

(c) In 1987, a second mission in Suriname was carried out. A comprehensive report was prepared and published as part of the sixth report of the Special Rapporteur (E/CN.4/1988/22, Annex V);

(d) In 1989, the Special Rapporteur undertook a mission in Colombia. A comprehensive report on the mission was published as an addendum to the eighth report of the Special Rapporteur (E/CN.4/1990/22/Add.1);

(e) In 1991 the Special Rapporteur undertook a mission in Zaire. The report on the mission will be distributed separately as an addendum to this report under symbol E/CN.4/1992/30/Add.1.

638. Peru and Sri Lanka have invited the Special Rapporteur to undertake missions, but it has not yet been possible to carry them out. This has been due in part to other professional duties of the Special Rapporteur, as well as the difficulties experienced by the Centre for Human Rights in preparing such missions, due to lack of staff.

639. Beyond any doubt, missions constitute the most effective method of the disposal of the Special Rapporteur for evaluation of the veracity of allegations received, and for arriving at a proper understanding of the social, legal, political and economic context in which executions occur in any given country. When a Government contests the factual aspects of an allegation, or when the question of impunity arises, or the question of whether or not courts operate in accordance with international standards of fairness and due process, it is difficult for the Special Rapporteur to evaluate the allegations properly without the possibility of visiting a country and speaking with the authorities and other concerned persons and organizations. The small number of countries which have invited the Special Rapporteur to undertake missions during the last decade is one of the most important limitations on the effectiveness in fulfilling his mandate, and countries where there are a significant number of cases pending which the Special Rapporteur has been unable to resolve on the basis of written submissions should be strongly encouraged to invite the Special Rapporteur to undertake a mission. It must also be recognized that missions create considerable additional work for the Secretariat, already overburdened by a steadily increasing case-load, which is yet another reason for providing increased support for the Special Rapporteur.

5. Cooperation with other United Nations Bodies, international organizations and non-governmental organizations

640. The Special Rapporteur had cooperated closely with the Ad Hoc Working Group on southern Africa, and he participated in joint hearings on the human rights situation in South Africa in London and various locations in Africa in 1985, 1986, 1988, 1989 and 1990. Testimony presented at the hearings contributed greatly to his understanding of summary and arbitrary executions in South Africa, and also allowed him to help some persons obtain aid through the Voluntary Fund for Victims of Torture.

641. The Special Rapporteur also cooperated closely with the Crime Prevention and Criminal Justice Branch of the United Nations Centre for Social and Humanitarian Affairs and the Committee on Crime Prevention and Control in the preparation of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions adopted by the Economic and Social Council in resolution 1989/65.

642. On a number of occasions, the Special Rapporteur has been asked by the Secretary-General to look into situations in which the Secretary-General had been asked to provide good offices.

643. The missions carried out by the Special Rapporteur have enabled him to identify the needs of the country visited in terms of technical assistance, stimulating and facilitating the provision of appropriate technical assistance by the United Nations Human Rights Advisory Services Programme, as well as bilateral assistance.

644. The Special Rapporteur has worked closely with other thematic and country rapporteurs, as well as the Working Group on Enforced or Forcible and Involuntary Disappearances, in particular in the exchange of information.

645. Since articles 6 and 14 of the International Covenant on Civil and Political Rights are central to the mandate of the Special Rapporteur, he has followed closely the work of the Human Rights Committee in applying and interpreting these provisions of the Covenant. The General Comments adopted by the Committee on Human Rights, as well as the decisions adopted in cases considered under the Optional Protocol, have been cited frequently by the Special Rapporteur as a guide to the interpretation of international standards concerning summary and arbitrary executions. In addition, the Special Rapporteur has used his mandate to support the Committee on Human Rights in the exercise of its functions under the Optional Protocol, by requesting a Government to comply with two decisions of the Committee on Human Rights indicating that two individuals sentenced to death had been convicted without full respect for due process and were entitled to commutation of their sentence (see Jamaica, para. 328).

646. Similarly, the Special Rapporteur has attempted to support and reinforce the work of bodies like the United Nations High Commissioner for Refugees and the International Committee for the Red Cross, in appropriate cases, by requesting Governments accused of violating basic standards of international legal standards concerning refugees and armed conflict to respect standards relevant to the right to life and by requesting them to allow such bodies access to persons within their mandates. The present report contains two examples of cases in which the Special Rapporteur requested countries to respect the principle of non-refoulement, in situations where forcing refugees to return to their country of origin might expose them to summary or arbitrary execution (see Malaysia, paras. 353-354, and Thailand, paras. 523-525).

647. Non-governmental organizations are the source of most of the information and allegations concerning arbitrary and illegal executions received by the Special Rapporteur. This information is indispensable to the effective fulfilment of the mandate of the Special Rapporteur, as is the cooperation of Governments. The great majority of information received is objective and reliable, and the Special Rapporteur would like to express his gratitude to the large number of national and international NGOs in all parts of the world who, by providing such information, have made a valuable contribution to the cause of human rights and dignity.

B. Recommendations

648. On the basis of the experience in monitoring summary and arbitrary executions throughout the world for 10 years, the Special Rapporteur would like to make the following recommendations addressed to governments in general, to governments which have received his communications, to the international community and finally to the Centre for Human Rights.

1. General recommendations to governments

649. The Special Rapporteur would like to recommend to Governments in general:

(a) To ratify international human rights treaties relevant to the protection of the right to life, and to make such treaties and other relevant human rights instruments widely available, in particular those mentioned in Chapter II of this report;

(b) To review national law and practice with a view to ensuring full compatibility with such international human rights standards, and to provide appropriate training concerning the meaning and implementation of such standards to law enforcement, judicial, correctional and military personnel;

(c) To investigate rigorously any allegations concerning summary or arbitrary execution which may be presented, regardless of the status, position or office of those responsible, and to ensure that the responsible parties are prosecuted without delay, by an independent and impartial tribunal with full respect for the rights of the victims;

(d) To take all necessary measures to ensure the rapid and complete elimination of unnatural deaths in custody, whether due to torture, excessive use of force in controlling prisoners or lack of minimally adequate nutrition, sanitation and health care;

(e) To consider establishing an independent governmental body for the promotion, defence and protection of human rights with competence, inter alia, to monitor alleged human rights violations and to facilitate cooperation between the Government and the United Nations human rights bodies, as well as other relevant international, regional and national bodies;

(f) Where situations of internal armed conflict, disturbances or tensions exist, to cooperate fully with the International Committee of the Red Cross and to seek reconciliation, in appropriate cases, through the mediation of the United Nations or competent regional bodies;

(g) To make concerted, long-term efforts to eliminate the root causes of violence and intolerance, in particular economic injustice, totalitarian political ideologies, and racial, national, ethnic and religious prejudice.

2. Recommendations to Governments which have received communications

650. The Special Rapporteur, would like to recommend to governments which have received communications from him:

(a) To reply to requests received promptly and fully;

(b) To consider the possibility of participating in an exchange of information or inviting the Special Rapporteur to undertake a mission, if he considers that such measures would be useful to clarify the allegations received.

3. Recommendations to the international community

651. The Special Rapporteur wishes to recommend to the international community:

(a) To ensure that governments requiring technical or material assistance in order to eliminate the causes of summary and arbitrary executions and strengthen national mechanisms for the protection of human rights are provided with effective and appropriate assistance, either through United Nations programmes and bodies or bilaterally, in particular in improving the capacity for forensic investigation, increasing the efficiency, professionalism and independence of the administration of justice and in the modernization of correctional systems;

(b) To make every possible effort to respond rapidly and effectively to situations of internal armed conflict and civil strife, which remain the major cause of summary and arbitrary executions, in particular by offering to mediate a peaceful solution to such conflicts and by strongly encouraging the concerned parties to accept such solutions;

(c) To promote information and awareness campaigns, in particular campaigns at the national and regional level in regions particularly affected by summary and arbitrary executions, designed to eliminate the root causes of violence by promoting tolerance, social solidarity and concern for human rights and the inherent dignity of every person.

4. Recommendations to the Centre for Human Rights

652. The Special Rapporteur would like to make the following comments and recommendations concerning the procedures and working arrangments of the Centre for Human Rights as well as of the Special Rapporteur:

(a) During the last year, a special effort has been made to respond more rapidly to allegations concerning imminent executions, in keeping with paragraph 6 of resolution 1985/40 of the Economic and Social Council, which requests the Special Rapporteur to "respond effectively to information that comes before him, in particular when a summary or arbitrary execution is imminent or threatened". Many of the requests for urgent action concerned death threats against individuals and groups active in the defence of human rights, as requested by the Commission on Human Rights in its resolutions 1990/76 and 1991/70:

(b) Responding to such cases more rapidly and frequently has stretched the staff resources of the Centre for Human Rights assigned to the Special Rapporteur to the limit. Yet it is necessary to improve the efficiency of the working methods of the Special Rapporteur in other ways as well. In resolutions 44/159 and 45/162, the General Assembly requested the Special Rapporteur, as indicated above, "to promote exchanges of views between Governments and those who provide reliable information to the Special Rapporteur, where the Special Rapporteur considers that such exchanges of information might be useful." In various resolutions, the Commission on Human Rights has invited governments to keep the Special Rapporteur informed on the progress made towards implementing recommendations he has addressed to them, and has encouraged governments encountering problems in the field of human rights to extend invitations to realize missions. The Special Rapporteur considers that it is essential to improve the effectiveness not only in the first response to imminent executions, but also in improving access to reliable information which is sufficient to allow him to form opinions on a greater number of the cases brought to his attention. He also considers it necessary, at this stage of the development of his mandate, to follow up more effectively in cases where there has been no response, where the reply is not sufficient to allow the allegations to be clarified, and to follow up efforts made by Governments to implement recommendations which have been made, as requested by the Commission on Human Rights;

(c) At present, only one professional staff member is assigned to assist the Special Rapporteur. While the Special Rapporteur is very grateful for the dedication, commitment and ability of the staff who have worked for him throughout these 10 years, it will be materially impossible for him to respond more efficiently to the allegations received unless resources are substantially increased. Indeed, the number of allegations received is steadily increasing as the work of the Special Rapporteur becomes better known. However, his efficiency is likely to deteriorate if resources remain at the present level. There is a compelling need to prevent additional summary or arbitrary executions, and to seek justice for the victims, as well as to deal with allegations concerning matters of great sensitivity for the governments concerned in a thorough, careful and professional manner. This makes it urgent to take steps to increase the resources available for carrying out all aspects of the mandate of the Special Rapporteur.

653. The Special Rapporteur therefore appeals to the Commission on Human Rights, and, through it, to the international community, to take prompt steps to preserve and strengthen this essential mechanism for the protection of human rights.

Annex

LIST OF INSTRUMENTS AND OTHER STANDARDS WHICH CONSTITUTE THE LEGAL FRAMEWORK OF THE MANDATE OF THE SPECIAL RAPPORTEUR

1. Universal Declaration of Human Rights, General Assembly resolution 217 A (III) of 10 December 1948 (article 3).

2. International Covenant on Civil and Political Rights, General Assembly resolution 2200 A (XXI) of 16 December 1966; entry into force 23 March 1976 (articles 4, 6, 7, 9, 10, 14, 15).

3. The Geneva Convention of 12 August 1949.

4. Declaration on the Protection of All Persons from Being subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, General Assembly resolution 3452 (XXX) of 9 December 1975.

5. Standard Minimum Rules for the Treatment of Prisoners, Economic and Social Council resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

6. Code of Conduct for Law Enforcement Officials, General Assembly resolution 34/169 of 17 December 1979.

7. Safeguards guaranteeing protection of the rights of those facing the death penalty, Economic and Social Council resolution 1984/50 of 25 May 1984.

8. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, General Assembly resolution 39/46 of 10 December 1984; entry into force 26 June 1987.

9. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, General Assembly resolution 40/34 of 29 November 1985.

10. Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment, General Assembly resolution 43/173 of 9 December 1988.

11. Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty, Economic and Social Council resolution 1989/64 of 24 May 1989.

12. Effective prevention and investigation of extra-legal, arbitrary and summary executions, Economic and Social Council resolution 1989/65 of 24 May 1989.

13. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and Treatment of Offenders (Havana, Cuba, 27 August-7 September 1990).

14. Convention on the Rights of the Child, General Assembly resolution 44/25 of 20 November 1989.